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Report on:
Expert Roundtable in Ottawa
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Unjamming the FM(C)T

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BASIC, in cooperation with the Norman Paterson School of International Affairs at Carleton University and the Belfer Center for Science and International Affairs at Harvard University, organized a private roundtable with experts and officials to take stock of the current strategic and political dynamics surrounding negotiations on a Fissile Material (Cut-Off) Treaty¹. The discussion was anchored around the role of the forthcoming Group of Governmental Experts in moving that process forward. The event received funding support from the International Security Research and Outreach Programme (ISROP) of the Department of Foreign Affairs and International Trade Canada.

This summary report reflects the key points made by individual participants during discussions, which were conducted on a non-attribution basis. The report in its entirety does not necessarily reflect the views of the organizers or funders, including those of ISROP or DFAIT, or the Government of Canada, or consensus views of the participants. This report is in its original language.

¹ This report follows the International Panel on Fissile Material's practice of referring to a treaty as an "FM(C)T", recognizing that the treaty could take one of two forms. A "Fissile Material Cut-off Treaty", or FMCT, would "cut-off" the production of fissile material for nuclear weapons; whereas a "Fissile Material Treaty", would be broader in scope –still banning the production of fissile material but also addressing existing stocks (International Panel on Fissile Materials. Draft for discussion. "A Fissile Material (Cut-Off) Treaty: A Treaty Banning the Production of Fissile Materials for Nuclear Weapons or Other Nuclear Explosive Devices", with article-by-article explanations, September 2, 2009). Use of the acronym in this report should not suggest that participants or groups necessarily support one or the other form.

A. The Group of Governmental Experts: structure, set up and role

1. Structure and set up:

- 1.1 The Group of Governmental Experts (GGE) is mandated, through U.N. Resolution 67/53, to “make recommendations on possible aspects which could contribute to, but not negotiate, a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”. It is not mandated to negotiate the terms of a treaty.
- 1.2 2013 will be a preparatory year for the GGE. The first step in the process includes members states submitting views to the Secretary General, and then he will oversee the establishment of the GGE. The Secretary-General issued a call for reports from interested states in January 2013, for submission by May 15, 2013. These reports will inform his decision.
- 1.3 The group is expected to have equitable geographical representation. However, in order to avoid any issue bias, a balance will need to be struck between ensuring *interests* as well as geographical groupings are appropriately represented.
- 1.4 Two representatives (a lead delegate and a supporting delegate) from each of the 25 participating states are expected to take part in the GGE. From 2014 to 2015, the GGE will gather a total of four times (twice in 2014 and twice in 2015), for two weeks each time.
- 1.5 The timing of the GGE meetings has not been established yet. Whether the GGE will meet for its 2015 schedule before or after the Nuclear Non-Proliferation Treaty (NPT) Review Conference is still open to discussion, and is likely to depend on the Chair’s schedule.
- 1.6 In order to allay the fear that the GGE could undermine the Conference on Disarmament (CD), the Group’s establishing resolution included a “return clause”: the GGE will conclude in the event that the CD agrees to a Program of Work that includes FM(C)T negotiations.

2. Challenges for the GGE:

- 2.1 The group’s composition will influence its outcomes. Recent experience shows that similar government expert groups have tended toward a “lowest common denominator” in their outcomes. Counter-intuitively, the higher the level of government engagement by member states, the less productive the process may be. High government engagement may risk experts (or, potentially, officials) participating in meetings with the primary aim of re-emphasizing state interests. Less intensive government oversight, on the other hand, may allow for more open discussion, with participants more able to speak freely and engage more creatively in debate.
- 2.2 The GGE’s concluding document will be agreed by consensus - so, the GGE may find itself facing many of the same challenges as the CD. It may, however, still be possible for the GGE to come up with different options and some concrete elements for a treaty.
- 2.3 There is a risk that states which are not interested in an FM(C)T may treat the GGE as a “box ticking” exercise. This needs to be managed both through the process and the presentation of the GGE, including its interactions with other non-member states.
- 2.4 A risk also exists that the GGE will spend its 2015 term negotiating the wording of its outcome report. To mitigate this, the Group might consider self-imposed shorter term reporting deadlines. Interim reports would not only serve to maintain momentum, but would also allow for engagement with a wider audience, outside the GGE.

3. Opportunities:

- 3.1 As a general rule, discussions of a fissile material (cut-off) treaty lack a constituency: the accumulation of fissile material has not directly affected populations in the way that, for example, nuclear testing has done in the past, so it is widely viewed as a “technical” issue. As such it has proved difficult to generate broad support or deep engagement on discussions on a treaty. The GGE might have a useful role to play in addressing this gap, by bringing more attention to the issues and building support for treaty negotiations.
- 3.2 The GGE may be an opportunity to re-emphasize how an FM(C)T might be of value to those interested in security, because of its direct link to the nuclear weapons debate.
- 3.3 The GGE has potential to trigger movement in the CD, which has been unable to negotiate a treaty for over a decade. Its existence may impose an informal deadline by which some progress on FM(C)T issues will need to be made.
- 3.4 At the very least, the GGE may be an opportunity to confirm the viability of an FM(C)T and make a collective statement about its utility. However, the process must not lose sight of the underlying goal: negotiation of a treaty on fissile materials. But given the GGE’s mandate, friends of an FM(C)T will eventually need to find a new forum for actually negotiating a treaty.
- 3.5 The GGE might consider commenting on the International Panel on Fissile Material’s draft treaty (2009) as a starting place – this would allow them to engage on technical issues without actually straying into negotiation of a text.

4. Chairmanship:

- 4.1 Chairmanship of the GGE has not yet been set - this will be part of the U.N. Secretary General’s decision-making process.
- 4.2 If it is to deliver a constructive outcome, the GGE will require a dedicated, engaged and directional Chair, with the support of key members, focused on setting aside broader political issues and establishing areas for productive discussion.
- 4.3 To improve balance and buy-in to the group, the GGE may benefit from a co-chairmanship – bringing together partners from, for example, the WEOG (“Western European and Others Group”) and the G21 (Group of “developing nations”). The World Health Organization successfully used the dual chairmanship of Mexico and Norway to address sensitive issues around drug development costs and combating disease in developing regions.
- 4.4 In order to supplement the GGE’s expertise and to provide assistance to the Chair, the GGE may wish to consider engaging “friends” of the Chair.

B. Managing the political dynamics

5. Conflicting goals for an FM(C)T:

- 5.1 A central source of tension has been the difference in expectations, mainly divided between nuclear weapon states and non-nuclear weapon states, over what an agreement on an FM(C)T would mean. There is no consensus on whether a treaty would / should mark a major step on the path toward eventual nuclear disarmament, or if it would / should be an end in itself. Many want the FM(C)T to signal moves toward eventual nuclear disarmament, but others are uncomfortable with an explicit linkage. But there remains doubt as to whether nuclear weapon states would continue beyond only halting new production of fissile material for nuclear weapons.
- 5.2 The GGE could serve as a forum for the nuclear weapons states and non-nuclear weapons states to talk more openly and honestly about these issues, and where progress may be possible – as well as where it would be too challenging to reach an agreement. The report produced by the GGE could be structured to reflect this.

6. The role of the P5:

- 6.1 The P5 (China, France, Russia, the United Kingdom and the United States) - which are also the five “legally-recognized” nuclear weapons states under the NPT – have, over the past few years, been engaged in their own series of meetings focused on their contribution to nuclear disarmament. This has included issues relevant to the FM(C)T debate, such as facilitating work on agreed definitions and discussing transparency. It remains unclear how the P5 as a group might engage with the GGE. However, regardless of the GGE, these states need to be encouraged to take greater responsibility in moving a treaty forward. In this regard, the United States will have a central – if not *the* central – role to play.
- 6.2 Demonstrating collective P5 political will would be a significant step forward – particularly if they were to put support for an FM(C)T in writing, which may help as a confidence building measure with other, non-nuclear weapon states.
- 6.3 While all states – nuclear and non-nuclear alike – share responsibility for treaty negotiations, the P5 in particular could serve as a model for taking action. More could be done, for example, to improve clarity on existing stockpiles - which may, in turn, provide an opening for further discussion.
- 6.4 The Chinese, in particular, have been wary of committing to increased transparency. They have highlighted that countries with significant weapons stockpiles may find it easier to increase transparency than those with fewer weapons. Should Chinese - or, potentially even Russian, participation – in increased transparency measures be unachievable, the three remaining P5 members could feasibly continue to collaborate to establish a marker for viable future steps.
- 6.5 Engaging China on an FM(C)T will depend heavily on whether the United States is willing to push for this type of treaty, and what assurances the United States may be prepared to give to China. The GGE may consider engaging the Chinese Atomic Energy Authority, which will have a role in any Chinese decision-making on an FM(C)T.
- 6.6 The FM(C)T is often viewed as a Western concern. The fact that those P5-permanent members of the U.N. Security Council are also the “formal” nuclear weapon states under the NPT has reinforced the perceived link between nuclear weapons and status. As such, the GGE’s geographic distribution and composition will be critical. It will need to focus on keeping non-Western countries engaged if it is to broaden support for an FM(C)T.

6.7 In recent years, P5 states have also expanded informal consultations to include three other states with nuclear weapons – Pakistan, India and Israel – in what some have called the P5-Plus. Although currently this term could be misleading as this group has never met, opportunities could exist for these states to come together to focus on fissile material issues related to an FM(C)T, it was unclear how much would be done around the timeframe of the GGE process.

7. Working with Pakistan and India:

- 7.1 Pakistan has played the lead role in recent years in blocking movement on an FM(C)T in the CD, although other states have also played this role before. Pakistan has cited its concerns about asymmetries with India's larger nuclear arsenal and rejected negotiations unless a treaty was to address existing fissile material stocks. Pakistan has also expressed opposition related to its concerns about receiving unequal treatment relative to India overall. Pakistan's opposition to moving forward with an FM(C)T is likely to continue with the GGE. However, Pakistan's position may be shifting: its Ambassador to the CD has said that Pakistan would allow negotiations to proceed as long as his country could have a Nuclear Suppliers Group (NSG) waiver like the one granted to India in 2008 to engage in civilian nuclear commerce. Although this does not change the ongoing issue of stockpiles, some see this as a potential opening for moving forward, whereas others see it as a delaying tactic.
- 7.2 In the absence of substantive movement within the GGE's lifetime, an alternative option might be to wait until Pakistan feels more secure in terms of its capabilities vis-à-vis India before attempting to draw it into a treaty. Parallels could be drawn with China and France not signing the Nuclear Non-Proliferation Treaty (NPT) for 20 years.
- 7.3 The effectiveness of an FM(C)T without Pakistan would still be high, as the global picture in real terms is unlikely to alter dramatically. Pakistan's contribution to global stockpiles of fissile materials is relatively low. Worldwide levels have dramatically reduced since the 1990s: while some countries are increasing their production, those that amassed immense stockpiles during the Cold War stopped production, and have been reducing their stocks. A treaty, even without Pakistan, would still serve to re-enforce the global trend towards continued reduction. As such, one option might be to pursue a treaty which Pakistan opts out of until it is ready and able to engage on the substance.
- 7.4 Separately, the political context over engagement with Pakistan is shifting. As the United States reduces its military commitments around Afghanistan, FM(C)T issues may be pushed up the agenda as competing priorities recede.
- 7.5 If the United States and others decide to look for ways to encourage India and Pakistan to make difficult choices on this and related issues, doing so outside the political stalemate of the CD may improve the chance of success. India and Pakistan's concern with political prestige may provide the opening to engage – although opportunities to draw either country in and bolster their commitments to the non-proliferation regime, such as the agreement between the United States and India over civilian nuclear cooperation, have already been squandered. More could be asked of India as it seeks membership in the Nuclear Suppliers Group. Although the United States might elevate the FM(C)T on its agenda with Pakistan, its ability to leverage the relationship in this way remains open to question.

8. The United States:

- 8.1 The United States has a central role to play, and the timing looks right. President Obama has made nuclear disarmament and non-proliferation a key part of his policy; he has

repeatedly stated his support for an FM(C)T as part of this agenda; and he has brought the United States back to a position of supporting an effectively verifiable treaty.

8.2 U.S. engagement will be critical for moving the process forward, but it will equally need to avoid dominating the process, which would backfire by undermining the credibility of the GGE.

C. Substantive issues

9. The benefits of a technical approach:

- 9.1 FM(C)T discussions have become highly politicized in the CD: to an extent, because the Conference itself is a political forum. The GGE has the opportunity to make progress through its technically-focused approach. For the FM(C)T, there has been a widely-held view that if the political issues can be addressed, then the technical ones will be surmountable. The GGE could continue to lay that technical groundwork because it will be removed from the politically charged environment of the CD, even if it will be unable to filter out all of the politics.
- 9.2 Establishing definitions around what is considered to be fissile material for the purposes of a treaty has become increasingly important. With expert access, this might be a suitable technical issue for the GGE to address.

10. Stocks:

- 10.1 Although the issue of whether and how to address existing fissile material stockpiles is among the most complex issues, the GGE may be unable to avoid the topic. At present, stocks are viewed broadly as an intractable issue, and a key blockage in moving the FM(C)T dialogue forward.
- 10.2 The GGE (and possibly, later FM(C)T negotiations) may have an opportunity to turn this discord on its head, if the issue of stockpiles is presented as an opportunity for richer dialogue. There is potential to engage Pakistan by reassuring them that they are not a lone voice in this debate: the G21 and NPDI agree with the need to address existing stocks and will raise the issue.
- 10.3 Possible confidence-building measures might include: weapons states declaring fissile material for civilian purposes because not all fissile material is in, or for, weapons, and these are still important stocks, technically useable for weapons purposes. The NPT weapon states could also put excess material for weapons under safeguards. Standardizing declarations on existing weapons materials may also help: at the moment there are gradations in the declarations: the United States has made a fairly comprehensive declaration of its existing stockpiles. The United Kingdom has released only basic numbers, and a date. And France has not yet made a statement. Establishing a common platform for transparency may be a helpful confidence building measure.

11. Costs of verification:

- 11.1 The costs of verification of an FM(C)T remain a debatable and controversial issue. IAEA costs could potentially double if it were charged with effectively verifying an FM(C)T - depending on the scope of the treaty.
- 11.2 Some argue that the deeper and wider the scope of the treaty, the higher the verification costs will be – and given the IAEA's challenges covering its existing expenses, this would be extremely problematic for the implementation of a treaty.
- 11.3 Others argue that cost issues are surmountable – particularly if the treaty were based on cutoff rather than including existing stockpiles because there would be fewer verification requirements. The International Panel on Fissile Materials, however, have assessed that verifying cut-off at facilities in the Nuclear Weapon States would comprise the largest portion of expense, regardless of whether existing stocks were included in a treaty or not.

12. Taking a step-by-step approach:

12.1 A possible approach might be to start with a core treaty on cut-off, and agree associated protocols to cover controversial issues such as verification. This could potentially then be followed by a more in-depth negotiation with nuclear weapon states on stocks. Such a staggered approach could bring multiple benefits: it could serve the interests of states with non-proliferation objectives, as well as those focused on an FM(C)T that addresses disarmament; it could make the substantive issues more manageable; and it could indicate intentions to continue the process beyond the initial phase of agreeing a treaty to cut off production, as well as establish norms.

D. External support for the GGE

13. Reaching out:

13.1 The GGE could usefully reach out to other states and organizations to draw on their expertise and diplomatic resources in support of the process.

13.2 The Non-Proliferation and Disarmament Initiative (NPDI - Australia, Canada, Chile, Germany, Japan, Mexico, the Netherlands, Poland, Turkey, and the United Arab Emirates) have been influential and have already sent strong signals that they want action on an FM(C)T. They are well-positioned to boost the outcomes of the GGE (and broader FM(C)T negotiations), by:

- Bringing in members outside of their own group of 10 and the 25 GGE members, acting as liaisons and allowing more countries to engage and contribute.
- Hosting parallel events that might focus attention on challenging issues connected with the treaty.
- Briefing the GGE on the NPDI's skills and knowledge which might be brought to bear.
- Bringing in the IAEA and supporting international organizations that would eventually be called upon if a treaty were to come into force.

14. Engaging militaries:

14.1 Military planners are often cautious about change and seek the ability to account for all contingencies. However, there has been growing recognition of the declining utility of nuclear weapons, with nuclear weapon state militaries increasingly emphasizing conventional force planning.

14.2 Military doctrine will remain central to the FM(C)T dialogue, and the GGE might usefully consult military representatives during the GGE process. There is a particular role here for engaging on shifting threat perceptions.

15. A parallel expert process:

15.1 The GGE might benefit from engaging a separate and independent group of experts to judge, review and comment on the GGE process, drawing regional representatives from universities and think tanks. The NPDI countries have substantial capacity on these issues, and may be good places to start, along with the International Panel on Fissile Materials. Such a group could serve as a shadow GGE and could establish standards for progress, produce reports, and stimulate other ideas. There was historical experience in doing this in the lead up to the Comprehensive Test Ban Treaty (CTBT), which relied in part on a close group of academics to address technical aspects.