
Conference on Disarmament

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Letter dated 15 September 2009 from the President of the Conference on Disarmament on behalf of the 2009 Presidents addressed to the Secretary-General of the Conference transmitting the reports of the seven coordinators submitted to the President of the Conference on the work done during the 2009 session on agenda items 1 to 7

On 3 February of this year, the six 2009 Presidents of the Conference had appointed the following as Co-ordinators to work under the auspices of the 2009 Presidents:

Ambassador Carlos Portales of Chile for agenda items 1 entitled “Cessation of the nuclear arms race and nuclear disarmament” and 2 entitled “Prevention of nuclear war, including all related matters” with a general focus on nuclear disarmament;

Ambassador Giovanni Manfredi of Italy for agenda items 1 entitled “Cessation of the nuclear arms race and nuclear disarmament” and 2 entitled “Prevention of nuclear war, including all related matters” with a general focus on the prohibition of the production of fissile material for nuclear weapons and other nuclear explosive devices;

Ambassador Marius Grinius of Canada for agenda item 3 entitled “Prevention of an Arms Race in Outer Space”;

Ambassador Babacar Carlos Mbaye of Senegal for agenda item 4 entitled “Effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons”;

Ambassador Petko Draganov of Bulgaria for agenda item 5 entitled “New types of weapons of mass destruction and new systems of such weapons; radiological weapons”;

Ambassador Dayan Jayatilleka of Sri Lanka for agenda item 6 entitled “Comprehensive program of disarmament”;

Ambassador I Gusti Agung Wesaka Puja of Indonesia for agenda item 7 entitled “Transparency in armaments”.

In my capacity as President of the Conference on Disarmament and through you, Mr. Secretary-General, and on behalf of all six 2009 Presidents, I would like to warmly thank all the seven Co-ordinators for the important work done under their professional guidance. The seven Co-ordinators’ reports on the outcome of the discussions submitted to the 2009 Presidents and attached to this letter in annexes I to VII capture their most valued work and should be one important point of reference for future activities of our Conference.

Consequently, I would be grateful if this letter together with its seven annexed documents could be issued as one official document of the Conference on Disarmament and distributed to the delegations of all member States of the Conference and non-member States participating in its work.

(*Signed*) Christian **Strohal**
Ambassador
President of the Conference on Disarmament

Annex I

Report to the President of the Conference on Disarmament on work done during the 2009 session on agenda item 1 entitled “Cessation of the nuclear arms race and nuclear disarmament”, and item 2 entitled “Prevention of nuclear war, including all related matters”, with a general focus on nuclear disarmament

Submitted by Ambassador Carlos Portales of Chile

I wish to inform that the meetings devoted to the Coordination conducted by Chile on Agenda items 1 and 2 of this Conference on Disarmament, with special focus on Nuclear Disarmament, according to schedule, took place on 9 and 23 February in informal plenary sessions.

This exercise provided the opportunity to all members of the Conference to exchange views on the matter, validate previously identified questions and raise new elements that require particular attention.

During the first session, after a brief introduction by the Coordination, several joint as well as national presentations were made on Nuclear Disarmament from a comprehensive point of view.

In the second session, the debate was conducted in accordance with a previously drawn-up thematic list featuring the following topics:

- (i) Convention on the Prohibition of the Development, Testing, Production, Stockpiling, Transfer, Use and Threat of Use of Nuclear Weapons and on Their Elimination;
- (ii) Nuclear Disarmament by stages;
- (iii) Ad-hoc Committee to start negotiations on a phased program for the complete elimination of nuclear weapons;
- (iv) Subsidiary body to address this matter;
- (v) Principles of transparency, irreversibility and verification;
- (vi) Role of this type of weapons and the concepts of security policies;
- (vii) Finally, De-alerting/decreasing the operational readiness or deactivation of Nuclear Weapons Systems.

On the whole, these two meetings reflected the large variety of positions and proposals that exist among delegations and groups of delegations with regard to Nuclear Disarmament.

Some nuclear States informed about their unilateral actions in favor of reducing nuclear arsenals. Others underscored the shared responsibility in the area of Nuclear Disarmament.

It was said that the first step towards Nuclear Disarmament is related to the initiation of negotiations on and the conclusion of a legally-binding agreement on fissile material.

Other ideas presented referred to what can be done in the meantime until complete Disarmament is attained, such as the creation of additional nuclear-weapon free zones, negative security and “no-first-use” assurances.

Special reference was made to the importance of the 13 practical steps adopted on the occasion of the 2000 NPT Review Conference.

Finally, several initiatives and proposals were mentioned, all of which are known because they were either presented to the CD as official documents or included in the rolling document elaborated by the Coordination.

In both sessions it was insisted upon that Nuclear Disarmament is an objective of the highest importance. Nevertheless, situations related to timings, priorities, linkages, resources, interests, definitions and scope are persisting, creating divergences of opinion between members.

In any case, it seems obvious that a real nuclear disarmament can only be reached through an incremental approach, step by step, gradually, based upon a comprehensive framework and upon the principle of equitable security for all.

We appreciate, however, the positive atmosphere which we deem likely to favor the initiation of a more specific discussion. We believe that an interactive debate and a large-scale exchange of opinions could be helpful in this perspective.

We suggest, taking into account that lately we have heard a number of personalities and reflection groups offer alternative approaches tending towards reduction or limitation of the importance attributed to nuclear weapons, that it would be interesting for this forum to debate the notions contained in these proposals.

Why not consider, among others, the “Hoover Plan”, the “Global Zero Nuclear Initiative”, the ideas emanating from the “Evans-Kawaguchi Commission”, the activities in the framework of the “Luxemburg Forum” and the reflections of the “Munich Security Conference”?

We still think that there is a margin of support and convergence in favor of transparency and confidence-building measures. Although the provision of unilateral information by certain nuclear powers is valued, progress in terms of participation and scope would be appreciated.

We think that developing these two aspects could constitute the initial way towards a more ambitious project. The CD seems to be the appropriate forum to make an endeavor of this nature, in view of the fact that all nuclear-weapon States are members and that transparency is fundamental for the attainment of the objectives under this item of the Agenda.

Finally, the Coordination included in the summary of proposals made during the informal plenary meetings of the past year’s coordinations the following items:

- Establishment of multilateral centers for the provision of nuclear fuel cycle services
- The proposal to negotiate a global legal regime governing the possession and use of missiles
- The proposal of giving a global character to the regime of the Treaty on the elimination of intermediate-range and short-range missiles (INF Treaty)
- Appointment of a special coordinator to assist in carrying out consultations on specific measures or a set of measures that have a potential of commanding consensus which can form the basis of a mandate for a possible Ad hoc Committee on Nuclear Disarmament

- The UN Secretary-General plan for nuclear disarmament

The first three proposals were incorporated in the second part of the list under the heading “other legal instruments” and the two other ones under the last heading “other specific measures”. The structure of the said summary remained unaltered.

We may conclude stating that valuable information was shared, substantial reflections were made and important proposals were reiterated. The possibility of having a space for the presentation of national positions and priorities as well as for ongoing dialogue is an opportunity we all appreciate.

Appendix to Annex I

Informal discussions on CD agenda item 1

“Cessation of the Nuclear Arms race and Nuclear Disarmament” and 2 “prevention of nuclear war, including all related matters”, **with a general focus on nuclear disarmament.**

Summary of proposals made during the informal plenary meetings.

Co-ordinator, Ambassador Carlos Portales of Chile

Convention prohibiting nuclear weapons

- A convention prohibiting the development, production, testing, stockpiling, transfer, threat of use or actual use of nuclear weapons and their elimination (as expressed in the SSOD1 final declaration and action plan)
- Negotiation of a Nuclear Weapons Convention prohibiting the development, production, stockpiling and use of nuclear weapons and on their destruction, leading to global, non-discriminatory and verifiable elimination of nuclear weapons with a specified timeframe
- Establish a subsidiary body, preferably under item 2 of the agenda, to negotiate a convention on the prohibition of the use of nuclear weapons
- Negotiation of a convention on the complete prohibition of the use or threat of use of nuclear weapons
- Comprehensive overview over the legal, technical and political requirements for a nuclear weapons free world, including:
 - Prohibition to acquire, develop, test, produce, stockpile, transfer, use and threat of use of nuclear weapons
 - Control of nuclear weapons and fissile material holdings
 - Steps for destruction of all nuclear warheads and delivery vehicles
 - Mechanisms for verifying destruction and ensuring compliance
 - International organization to coordinate verification, implementation and enforcement under international control
 - Disarmament and non-proliferation education

Other legal instruments

- Negotiation of a global agreement among nuclear weapon States on “no-first-use” of nuclear weapons
- Negotiation of a universal and legally-binding agreement on non-use of nuclear weapons against non-nuclear weapon States
- Negotiate an FMCT/FMT
- Agreement on specific and legally binding measures to achieve the universalization of the NPT

- Multilateral agreement to reduce the operational readiness of deployed nuclear systems
- Establishment of multilateral centers for the provision of nuclear fuel cycle services
- Global regime governing the possession and use of missiles
- Given a global character to the INF Treaty

Ad hoc committee – phased programme nuclear disarmament

- An ad hoc committee to start negotiations on a phased programme for the complete elimination of nuclear weapons with a specified framework of time, including a nuclear weapon convention
- Nuclear weapon states must fulfill disarmament obligations under the NPT
- Multilateral agreement to reduce nuclear arsenals by a certain number or percentage
- Reduction of non-strategic nuclear weapons

Transparency and confidence-building measures

- Principles on transparency, irreversibility, verification of nuclear disarmament, including data sharing, international monitoring system, consultation and clarification procedures, on-site inspections, registry
- NWS to provide information on number and types of nuclear weapons in current arsenals and projected levels in five years. Provide status on weapons and delivery systems removed from active service or dismantled, and conversion efforts
- Regular (formalized) briefings to CD members by declared nuclear weapon states
- De-alerting/decreasing the operational readiness of nuclear weapon systems (UNGA Resolution 62/36)
- Compliance mechanism that could consist of technical assistance in destruction, procedures for national implementation, dispute resolution procedure, penalties for non-compliance, recourse to the UN Security Council, UNGA and ICJ for further action
- Reduction/elimination of the role of nuclear weapons in security doctrines

Other specific measures

- Entry into force of the CTBT, maintaining the moratorium on nuclear test explosions
- Implementation of TNP Review Conferences' agreements (1995 and 2000), in particular the 13 practical steps and seize the opportunity of the 2010 Conference
- Dialogue between nuclear states
- Establish a nuclear-weapon free zone in the Middle East
- Nuclear-weapon free zones
- Negotiate with a view to reaching agreement on effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear

weapons. These arrangements could take the form of an internationally binding instrument

- The link between nuclear disarmament and nuclear non-proliferation
- Consideration by an ad hoc committee of; simultaneous pursuit of nuclear disarmament and non-proliferation; prominence of nuclear weapons in security doctrines; asymmetric possession of WMD; terrorists and WMD; cooperation in the field of nuclear energy
- Adopt a comprehensive and balanced programme of work of the CD, and to establish subsidiary bodies to negotiate the four core issues
- Reaffirmation of the unequivocal commitment of all nuclear weapon States to the goal of complete elimination of nuclear weapons
- Reduction of the salience of nuclear weapons in the security doctrines
- Appointment of a special coordinator to assist in carrying out consultations on specific measures or a set of measures that have a potential of commanding consensus which can form the basis of a mandate for a possible Ad hoc Committee on Nuclear Disarmament
- UN Secretary General plan for nuclear disarmament

Annex II

Report to the President of the Conference on Disarmament on work done during the 2009 session on agenda items on agenda item 1 entitled “Cessation of the nuclear arms race and nuclear disarmament”, and item 2 entitled “Prevention of nuclear war, including all related matters”, with a general focus on the prohibition of the production of fissile material for nuclear weapons and other nuclear explosive devices

Submitted by Ambassador Giovanni Manfredi of Italy

1. *Procedural aspects:* I have been appointed Coordinator for agenda item 1 and 2, with a general focus on the prohibition, of the production of fissile materials for nuclear weapons and other explosive devices, by the President of the Conference on Disarmament, Ambassador Le Hoar Trung of Vietnam, on behalf of the six Presidents for the year 2009. To this end, I chaired two informal sessions on FMCT of the Conference, the first on Tuesday 10 February and the second on Tuesday 24 February. Both took place in a very positive atmosphere and exceptionally constructive manner, and for this I am grateful to all delegations.

At the meeting on the 10th of February I circulated among the delegations the attached working non-paper with the aim of focusing the discussion on four topics that I considered particularly important in a new Treaty on fissile materials: the definition of fissile materials, the scope of the Treaty, stockpiles and plants, verification.

2. *Statements delivered by delegations:* the following delegations took the floor during the two aforementioned informal sessions: Canada, Egypt, Germany, Pakistan, Argentina; Australia; Japan; India; the Russian Federation, Turkey, France, Switzerland, Malaysia, the Republic of Korea, the People’s Republic of China, the Islamic Republic of Iran, the United States of America, the United Kingdom, the Syrian Arab Republic, Algeria, and Mexico.

3. *Outcome of the Discussions:*

- **Definitions:** a large number of delegations expressed preference for the definition of fissile materials contained in art. XX of the IAEA Statute. Its use has proved reliable and experts in the field have already acquired sufficient familiarity with it, thus facilitating the drafting and implementation of a treaty on fissile materials. The matter is complicated by the need in the Treaty to exclude from its provisions (or to discipline differently) activities aimed at the production of fissile materials exclusively for civil uses. The issue is highly technical and would require, as several delegations underlined, the input from technical experts to allow the taking into account of the most recent scientific developments in this field.

Certain delegations also pointed out the close linkage that exists between the issues of definitions and of verification. They observed that the adoption of excessively broad definitions may impair the conduct of verifications.

- **Scope:** The contents of the discussions on this item indicate that it is no longer considered as controversial as was previously the case. A large number of delegations stressed that the Shannon Report (document CD/1299 of 1995) is still the only one formally approved by consensus by the Conference on Disarmament

that concerns the scope of an FMCT. Though dating back fourteen years, they underlined that — by mentioning verification — it has nevertheless maintained its validity and usefulness. Other delegations expressed the opinion that the wording on the scope of an FMCT contained in document CD/1840 of 2008, that calls for negotiations without preconditions, also be taken into account and given due consideration. Other delegations, finally, expressed the opinion that, to allow the Conference to proceed expeditiously towards the beginning of negotiations on a Treaty, discussions on the mandate should not to be reopened.

- **Verification:** The question of verification no longer appeared as contentious as in, previous years. The majority of the delegations that took the floor expressed themselves in favor of an internationally verifiable Treaty. Some delegations, however, were still expecting specific instructions from their capitals and, consequently, were not yet in a position to announce a definitive position on the matter.
- **Stockpiles:** From the discussion in both informal sessions, the topic that appeared to be the most delicate and controversial for the prevalent number of delegations was the question of stockpiles: whether the Treaty should cover in some way existing stocks of fissile materials, or should only cover stocks manufactured after its entry into force. The question of stockpiles, to a number of delegations, represented a priority national security concern. No delegation, however, considered reaching an understanding on stockpiles as a necessary precondition for starting negotiations on an FMCT. Rather, negotiations, on the Treaty, once started, could also include the topic of stockpiles.
- **Other items:**

The importance of proceeding by consensus in negotiating the Treaty was underlined by some delegations, as was the necessity that these negotiations take place only within the framework of the Conference on Disarmament, or a subgroup thereof set up in accordance with its Rules of Procedure.

Some delegations, in light of the circumstance that items 1 and 2 of the agenda of the Conference of Disarmament are treated together, affirmed that other issues should also be taken into consideration, in the appropriate fora, when dealing with FMCT, such as NSAs and Nuclear Weapons-free Zones, in particular in the Middle East.

The importance of the link between an FMCT and the implementation of article VI of the NPT was also mentioned by a number of delegations. The existence of this link and the approaching date of the NPT Review Conference next year lends urgency to the need to commence negotiations on an FMCT.

4. *Conclusions:* What clearly emerges from two informal sessions of the Conference on Disarmament is that, in the opinion of the majority of delegations, a Treaty on Fissile Materials is, indeed, ripe for negotiations. The only seriously contentious issue remaining is that of fissile material stockpiles, that may be addressed within the framework of negotiations on the Treaty, once they have begun.

Appendix to Annex II

I. The President of the Conference on Disarmament, Ambassador Le Hoai Trung of Vietnam, has informed me of the decision of the Presidents of the Conference to appoint me coordinator for agenda items 1 and 2 with a general focus on the **prohibition of the production of fissile materials for nuclear weapons and other nuclear explosive devices**.

To this end, our proposal is to build on the excellent work carried out by the previous coordinator, Ambassador Sumio Tarui of Japan, as summarized in his report, CD/1846 of August 15, 2008, annex II.

There are no objections in principle, on record, to the conclusion of a Treaty on Fissile Materials. The topic was first broached in the Baruch Plan in 1946 and received considerable impetus with General Assembly Resolution 48/75 (item L) of 1993 and the report by Ambassador Shannon of Canada (CD/1299 of 1995).

An FMCT represents an essential instrument to halt the spread of nuclear arsenals, as called for by the NPT. It would also make nuclear weapon reductions irreversible. More specifically, we need it as a tool both for non-proliferation and for nuclear disarmament.

II. Given the above, rather than engaging in a general debate on the need for an FMCT and on the political factors underpinning it, our proposal would be to concentrate on four key issues (presented as a set of questions), to see whether attitudes of CD member countries have evolved in the past year or show promise to do so in the near to medium term.

A. Definitions

Here, at least four schools of thought have so far emerged:

- The **US** proposed in CD/1777 (Art. II) to define fissile material as:
 - (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.
- The **IAEA** (art. XX of its Statute) uses the term “special fissionable material” rather than “fissile material”. More fittingly, the IAEA safeguards glossary at para 4.25 – considers “direct use material” i.e. “nuclear material that can be used for the manufacture of nuclear explosive devices without transmutation or further enrichment”.
- **The Russian Federation** has proposed (definition found in Swiss WP CD/1771 of 2006) to consider as fissile material for the purposes of the Treaty Plutonium with more than 90% of Pu-239 and Uranium with more than 90 percent U-235.
- **Switzerland**, finally (CD/1771 of 2006), suggests Plutonium with a concentration of Pu-239 greater than 70 percent highly enriched Uranium containing more than 40% of U-235; as well as U-233 and Neptunium 237.

The above is *not* meant to be a definitive list of the various options so far tabled for definitions of fissile materials, but represents a useful sample for our discussions.

B. Scope

There are at least three documents that mention the scope of the Treaty.

- A/RES/48/75 of 1993 and CD/1299 (the Shannon Report) of 1995. Both stipulate a “non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”.
- CD/1840 of 2008, instead, provides for “negotiations without preconditions, on a non-discriminatory and multilateral treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”. The provision for effective verification is missing, but mention has been added to negotiations without preconditions, to better allow delegations to spell out and pursue their national positions and priorities.
 - Could a possible solution be a combination of both formulae, to wit: “negotiations without preconditions, thus providing all delegations with the opportunity to actively pursue their respective positions and priorities and to submit proposals on any issue they deem relevant, on a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”?
 - Or should we opt for the Shannon/Res 48-75 wording?
 - Or is the wording of CD 1840 the most viable solution?

C. Stockpiles and plants

A constant topic of debate has been whether the scope of a future FMCT should be *ex tunc* or *ex nunc*, ie.:

- Should the treaty only deal with fissile materials manufactured on and after its entry into force? (*ex nunc*)
- Or should it *also* contain clauses on existing stocks? (*ex tunc*)
- If we opt for *ex nunc* should the treaty contain provisions to allow its quick entry into force?
- Instead, if *ex tunc* is preferred, how far back do we go? **All** fissile material, or only that manufactured up to a specified number of years before the entry into force of the treaty?

Similarly, should an FMCT also deal with the problem of nuclear fuel manufacturing plants?

- More specifically, should it provide for the permanent obligatory decommissioning of military nuclear fuel manufacturing facilities?
- Or should it also allow the permanent reconversion of military manufacturing plants into exclusively civilian facilities, with appropriate safeguards to prevent covert reconversions to military use in the future?

The general idea is to avoid the danger that the treaty lose in part its effectiveness between start of negotiations and entry into force.

D. Verification

This topic, which is directly related to the issue of mandate (see above), has always attracted the most attention for the obvious reason that there is little point in negotiating a treaty in the field of disarmament without including provisions to discourage laxity in how its obligations are carried out.

There are essentially two courses of action open to us in this respect:

- The American solution, as contained in CD/1777 of 2006 (a draft FMCT tabled by the US delegation which formally is still a valid document). Art III/2 reads "...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...".
- Otherwise, we may opt for the IAEA solution, that is we may transpose in an FMCT the provisions on verification already existing and applied by the International Atomic Energy Agency in its Safeguards Agreements.

Both solutions have the merit of being well tested through numerous precedent; the IAEA one is the stricter; both have proven to be feasible.

An ancillary aspect of verification and stockpiles is the proposed exemption of nuclear fuel for the propulsion of naval vessels from fissile material stockpile calculations.

- Are there any objections in considering this nuclear fuel exempt from these calculations but **not** from the verification provisions?
- More broadly, are there any objections in extending such exemption also to other possible non-explosive uses of nuclear fuels (for example, civilian merchant vessels or outer space probes and satellites)?

Annex III

Report to the President of the Conference on Disarmament on work done during the 2009 session on agenda item 3, entitled “Prevention of an arms race in outer space”

Submitted by Ambassador Marius Grinius of Canada

1. Two informal meetings were held during the first 2009 session of the CD, on 10 and 27 February. In my preliminary remarks I outlined the objectives for these informal sessions, namely: to validate positions that have been identified over the last several years on PAROS; to open opportunities for delegations to present elements of change, new positions and/or ideas; and, to advance discussions on specific issues in order to prepare the ground for possible future work on PAROS. My approach for structuring the discussions was simple – to focus on those elements where delegations had expressed an interest in the previous year’s informal, and discuss them further. Those two elements were Transparency and Confidence Building Measures (TCBMs) and legally-binding instruments (draft agenda attached). In addition, I invited the new UNIDIR Director, Theresa Hitchens, to make a presentation to CD members at the beginning of the first informal session on 10 February 2009 which provided an overview of the historic and current state of play on PAROS, and ideas on voluntary and legally binding measures that could be explored by the CD.

2. The report that follows will provide you with my personal summary and impressions of the deliberations that took place during these informals. There is universal agreement on the pervasive role of space activities in all aspects of our daily lives and recognition of the need that the benefits and exploration of space remain accessible to all and for peaceful uses. Previous informal discussions suggested that many countries hold the view that the existing legal architecture governing space activities is not sufficient to address current and future security challenges in outer space. Most delegations agree that the CD has a role in addressing these gaps to outer space security.

3. The discussions during these informals were held in a constructive and engaging atmosphere. As indicated above, I invited UNIDIR Director Theresa Hitchens to deliver a presentation at the start of the first informal on 10 February 2009. The discussions that followed her presentation highlighted the following issues:

- Several delegations noted that the issue to be addressed is the placement or use of weapons in space and not the militarization of space, which has already occurred
- One delegation asked how the CD can better interact with civil society and NGOs, with another delegation noting the role that industry plays in outer space and the need to also engage them in discussions
- Cooperation with other relevant international organizations, such as the ITU and COPUOS, with responsibilities for space issues will be important
- Interest was expressed in UNIDIR’s preparations for their annual space seminar

4. There was a high degree of interaction on both agenda items: legally binding instruments and TCBMs. On legally binding instruments, the discussions focussed primarily on the Russian-Chinese draft treaty on the Prevention of the Placement of Weapons in Outer Space (PPWT), document CD/1839:

- Several delegations emphasized the necessity for a legally binding instrument, arguing that unilateral moratoria and regional initiatives are not viable alternatives for a legally binding instrument to prevent the weaponization of space.
- Russia and China noted that they are preparing a document that responds to comments submitted and raised during the various formal and informal discussions on the draft PPWT, as well as those conveyed bilaterally. This document will include both general and article-specific questions. For example, the document will respond to questions related to whether the draft PPWT prohibits ASATs and their testing, questions on definitions, and provisions related to self-defence amongst others. It was not possible to circulate this document in time for the informal discussions.¹
- Many delegations supported continued discussions on the draft PPWT and welcomed the contributions that Russia and China have made to the PAROS debate. The forthcoming response document could serve as a basis for future discussions, particularly at the experts' level.
- One delegation noted their positive views on the PPWT but added that one area where the PPWT is deficient is the banning of ASAT weapons. Another delegation suggested that consideration should be given to an ASAT-ban treaty.
- Several delegations expressed the view that to prevent the weaponization of space a legally binding instrument is needed. The CD would be the most appropriate forum to negotiate such a legally binding instrument and address the military dimension of outer space. One delegation contended that ad hoc arrangements were not the way forward.

5. With respect to transparency and confidence-building measures (TCBMs), the following views were expressed:

- Most delegations support the view that TCBMs can foster greater trust and transparency and can be an important complementary or stand-alone measure. However, some delegations do not believe that TCBMs are sufficient on their own to fill the gaps in the legal regime, and therefore should not be a substitute for a legally binding instrument.
- The draft EU Code of Conduct, an initiative being pursued outside of the CD, was cited as one example of a TCBM.
- A few delegations noted that TCBMs that address the security aspect of outer space could be part of a broader PAROS treaty. It was also suggested that practical initiatives on TCBMs could also be implemented unilaterally.
- Another delegation suggested that a robust code of conduct can be an important precursor for making progress on the negotiation of future treaties. Such a security guarantee in the CD could be a declaration of legal principles, a code of conduct, or a treaty that would: (a) ban the placement of weapons in space, (b) prohibit the test and use of weapons on satellites so as to damage or destroy them, and (c) prohibit the use of satellites themselves as weapons.

6. My overall impression of the informal discussions is that there is a strong appetite to further substantial discussions on PAROS, including on the draft PPWT. Several delegations are encouraged by the possibility of a shift in position of the new US Administration, which could add a new element to the PAROS discussions. While no

¹ This was subsequently done in CD/1872 dated 18 August, 2009.

specific policy details have been revealed yet, there is certainly some optimism that there are opportunities to move forward the PAROS debate.

7. Most delegations are interested in beginning substantive discussions within the context of an agreed CD program of work. Should such work begin in the CD, there are some divergent views on how the CD should approach addressing the security dimensions of space. One view is to begin work on TCBMs as a step towards a legally binding instrument. Another view is to include TCBMs as part of a future PAROS treaty. In either case, I would reiterate my observation from last year's informal discussion that any work on PAROS in the CD will require close cooperation with other relevant international organizations, such as COPUOS and the International Telecommunication Union, which also have responsibilities for outer space.

Annex IV

Report to the President of the Conference on Disarmament on work done during the 2009 session on agenda item 4, entitled “Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”

Submitted by Ambassador Babacar Carlos Mbaye of Senegal

1. Organization and conduct of informal meetings

In accordance with the organizational framework for the work of the first part of the session of the Conference on Disarmament, informal meetings on agenda item 4, entitled “Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”, (or “negative security assurances”) were held on 12 and 26 February 2009.

The work plan that I had proposed was as follows:

- 12 February: General exchange of views to allow delegations to recall, clarify or bring up to date their positions on negative security assurances
- 26 February: Thematic discussion for the submission of proposals on specific aspects of negotiating a possible legal instrument on security assurances with a view to preparing the future work of the Conference on this agenda item

The statements at both meetings were substantial and constructive.

I found that there were many statements in support of the legitimacy of the non-nuclear-weapon States’ call for negative security assurances.

- In this connection, it should be recalled that the non-nuclear-weapon States’ demand for assurances against the use or threat of use of nuclear weapons against them was made before the NPT was concluded in 1968 and that the demand has been the subject of several Security Council resolutions. Moreover, the 1996 advisory opinion of the International Court of Justice reaffirmed the existence of an obligation to pursue in good faith negotiations leading to nuclear disarmament in all its aspects under strict and effective control.
- It was noted that statements by nuclear-weapon States that they would not use or threaten to use nuclear weapons against non-nuclear-weapon States were insufficient given that the statements were unilateral, conditional and revocable.
- In the same way, some delegations maintained that the assurances given in nuclear-weapon-free zones were insufficient, conditional and geographically limited. Nevertheless, it was affirmed that the creation of such zones in Africa, South-East Asia, Central Asia and South America and Mongolia’s nuclear-weapon-free status constituted steps forward. In that spirit, some delegations called for the implementation of the relevant Security Council resolutions and undertakings of the 1995 and 2000 NPT Review Conferences to make the Middle East a nuclear-weapon-free zone.

- Furthermore, it was argued that granting negative security assurances would constitute a quid pro quo for States that renounced nuclear weapons and would help to combat proliferation. In that connection, it was affirmed that granting legally binding assurances to non-nuclear-weapon States would be a confidence-building measure and a step towards the implementation by nuclear-weapon States of article VI of the NPT concerning nuclear disarmament.

Several delegations argued in favour of the need to start negotiations on a legally binding, non-discriminatory and universal international instrument that would provide assurances against the use or threat of use of nuclear weapons against non-nuclear-weapon States. It was proposed to establish an ad hoc committee within the Conference on Disarmament to prepare for and conduct such negotiations, in accordance with document CD/1693 of 2003, known as the five Ambassadors' proposal, which provided relevant guidance on the matter. Some delegations considered that the basic details of a possible treaty could be dealt with in due course during the negotiations. I would also mention that a delegation put forward the idea that Security Council resolution 984 (1995) on security assurances could be reaffirmed to strengthen the current legal framework, if necessary by having more States align themselves with it.

2. Conclusions and recommendations of the Coordinator

- The discussions once again revealed just how complex negative security assurances were. Several topics remained subjects of debate when it came to which steps to take to find a solution to that delicate problem. For example, there was no consensus on the framework in which negotiations over a possible treaty on such assurances might be conducted.
- Therefore, I believe that the Conference should continue its consideration of the issue of negative security assurances under its agenda by giving it the priority and attention that such an important issue requires. Assurances are important not only in themselves but also because of the obvious links that exist between them and other items on the agenda. From this perspective, progress on negative security assurances could, I believe, ensure further progress on other matters included among the essential items currently under the Conference's consideration.
- Lastly, with respect to our future work, it might be useful, in my view, to establish a special committee on security assurances with a mandate to review all aspects of the problem of negative security guarantees, including the negotiation of a relevant legally binding international instrument.

Annex V

Report to the President of the Conference on Disarmament on work done during the 2009 session on agenda item 5, entitled “New types of weapons of mass destruction and new systems of such weapons; radiological weapons”

Submitted by Ambassador Petko Draganov of Bulgaria

In my capacity as coordinator on agenda item 5, “New types of weapons of mass destruction and new systems of such weapons; radiological weapons”, I have the honor to report on the work done in 2009.

In addition to the number of bilateral consultations, two rounds of multilateral informal consultations were held on February 16th and on March 2nd, with the purpose of enabling member countries to share observations and comments, and to make specific remarks on the issues identified as central to this agenda item during the discussions so far.

Delegations made use of the opportunity to update and validate their positions, indicating their continued interest in the topics, as previously listed in my initial 2007 report:

- A Radiological Weapons Ban
- The so called “Dirty bomb” threat
- State actors/actions and non state actors/actions
- The role of the IAEA and international assistance
- The effectiveness of existing international instruments
- The threat of radiological terrorism
- A Universal International Agreement to Ban the Development and Manufacture of New Types and Systems of WMD; The preventive approach
- Definitions of new types and systems of WMD
- The need to keep Item 5 under active consideration without prejudice to “pressing” issues under Items 1 to 4
- The appointment of a Special Coordinator on Item 5 once the CD has started substantial work

Several additional specific comments were made during this year’s session. One delegation raised the issue of “state terrorism”, while others pointed out that the focus of the discussion under Agenda Item 5 should be more on the nature of the weapon rather than the user’s characteristics. Emphasis was again placed on the prevention of the emergence of new WMD, since the prevention of arms race is, after all, the major goal of our disarmament efforts. UNGA resolution 63/36 on the prohibition of the development and manufacture of new weapons of mass destruction and new systems of such weapons was referred to and an appeal was made to strengthen the consensus around the issue.

During the two rounds of consultations delegations raised issues that fall within the already established in 2008 broader themes of general interest, namely:

- Radiological weapons
- New types of weapons of mass destruction and new systems of such weapons. The importance of prevention
- Preventing terrorists from acquiring radiological materials and WMD

There is a widely shared understanding that the current work on agenda item 5 should include further elicitation of delegations' views on the main issues of concern and in-depth preparation for substantial work when the Program of work of the CD is adopted.

The input offered by delegations during the consultations clearly indicates that Item 5 should be kept on the CD agenda for review and update. Once the Conference starts substantive work, the appointment of a special coordinator on Agenda Item 5 would be the generally preferred and accepted option.

I therefore recommend that the CD keep item 5 under active consideration without prejudice to the discussions and/or negotiations on issues related to items 1 to 4 on the agenda of the CD session.

Annex VI

Report to the President of the Conference on Disarmament on work done during the 2009 session on agenda item 6 entitled “Comprehensive Programme of Disarmament”

Submitted by Ambassador Dayan Jayatilleka of Sri Lanka

1. Two informal meetings were conducted on the agenda item 6 on 27 February 2009 and 3 March 2009. In view of the lack of contributions from member States to this item this year, two independent experts were invited to share their views at the informal meetings. In this regard, two thought-provoking contributions were made by Ms. Susi Snyder and Ambassador Sergey Batsanov at informal meetings held on 27 February and 3 March, respectively.
2. During the last year’s informal debate, the delegations came up with two broad approaches in dealing with the Item 6, namely the holistic or philosophical approach, and the pragmatic approach coupled with developing of an objective criterion. Delegations who took the floor during the 2009 informal debate also made reference to these two approaches and I believe that these two approaches are not contradictory but complementary to each other. As one delegation stated “the simultaneous pursuit of both approaches is the way forward for agenda item 6, which cuts across all agenda items covering nuclear and conventional disarmament as well as prevention of an arms race in outer space”.
3. However, one delegation pointed out that “Any proposal coming out from the deliberations under item 6 should be aimed at an outcome in the form of a legally binding instrument. A mandate of “substantive discussions” is contrary to such an approach”.
4. I was also pleased to note the remarks made by several delegations on the link between disarmament and development. Reference was also made in this regard to the programme of action recommended by the 1987 International Conference on the Relationship between Disarmament and Development. This is a subject I believe that most delegations would like to address in detail in future deliberations under this item.
5. Some delegations also emphasized the importance of bearing in mind the provisions of the UN Charter, the outcome of the SSOD-1 and its relation to this item, the principles of right to self defence, the need to uphold International Humanitarian Law, and the need to pursue on equal basis the disarmament objectives in the fields of nuclear and conventional weapons, and outer space. It was also mentioned that root-causes of insecurity must be addressed, while guaranteeing undiminished security for all. The need to develop confidence-building measures, and the need to promote the use of technology for peaceful purposes, disarmament and development, were also expressed.
6. As in the case of last year, several delegations also emphasized on the importance of conventional arms control, particularly in the context of the Convention on Certain Conventional Weapons and its Group of Governmental Experts, and illicit small arms and light weapons. I believe therefore that the discussion on item 6 during the last several years and this year has contributed to bring to the CD’s attention the urgent need for further and accelerated measures on conventional arms control, keeping in mind the increasing global defence expenditure which recorded its highest point in 2008. As one delegation pointed out nuclear disarmament will remain elusive if asymmetries in conventional arms continue to grow. Therefore, that delegation was of the view that there is a need to step up efforts to curb excessive and destabilizing accumulation of conventional weapons as well as their

uncontrolled transfers. It was further viewed in this regard that a stable balance of conventional forces is essential to ensure strategic stability.

7. A summary of various points raised by delegations during the two informal debates is annexed to this report only for record purposes and to take the debate forward, without making any attribution to any particular delegation.

8. I have no specific recommendations to make with regard to any possible way forward on this item and no delegation ventured into proposing any such specific recommendations during the course of two informal debates. I am therefore in the hands of all delegations in this regard and will stand ready to carry-out further informal discussions in the future, if needed, and if President so desires.

Annex VII

Report to the President of the Conference on Disarmament on work done during the 2009 session on agenda item 7 entitled “Transparency in Armaments”

Submitted by Ambassador I Gusti Agung Wesaka Puja of Indonesia

1. I have the honour to report, in my personal capacity and as mandated by you, on the discussions that took place during two informal meetings on Agenda Item 7: Transparency in Armaments. As you are aware, this report has been prepared under my own responsibility.
2. In preparation for the informal meetings on this agenda item, I circulated a proposed agenda through the Secretariat of the Conference on Disarmament.
3. I facilitated two informal discussions, on 17 February and 5 March 2009, which, in my view, took place in a constructive and encouraging atmosphere, although I have to admit that little real progress was achieved.
4. As indicated in the agenda, the first informal meeting was dedicated to general discussions/Briefly, I went over the issues that were raised in the previous discussions and took stock of the state of progress under this agenda item. I reminded delegations of the issues raised in the previous years as contained in document CD/1846 of 15 August 2008, and of the issues discussed during the additional informal meeting of 12 August 2008, on which the Coordinator had reported orally to the P6.
5. Subsequently, I invited delegations to provide and share further information on developments that are relevant to those issues, or any other new issue that could be discussed under agenda item 7.
6. In response, delegations have basically reaffirmed their views, positions, arguments and concerns on some of the issues that were previously discussed, including the effectiveness of existing transparency measures, increasing military expenditure, the inclusiveness of transparency in armaments, the possibility of appointing a special coordinator, and the ban on the transfer of arms to terrorists.
7. Several delegations emphasized the importance and relevance of the issue of Transparency in Armaments and support the retaining of the issue in the agenda of the Conference on Disarmament.
8. Having observed the discussions during the first informal meeting, the coordinator, in an endeavor to seek a creative way to handle this issue, suggested to the delegations to make an effort to find a least common denominator, if possible, on any issue or issues from the list of issues that were discussed during the last two years. The intention was to at least highlight the convergence of views on any issue or issues that might enjoy support so that they could be taken up for future deliberations under agenda item 7.
9. At the second informal meeting, the coordinator proceeded with the meeting based on his suggestion that it try to find a common denominator on the issues. A question was raised by a delegation as to what criteria should be used in finding a common denominator. In responding to the query, the coordinator suggested four criteria as the basis for finding a common denominator, namely:
 - The issue most likely to lead to preventing the excessive accumulation of arms

- No objection from any member state towards that particular issue
- The issue is relevant to agenda item 7
- No duplication with discussions on that issue in other fora

10. On this basis, the coordinator presented a proposal that the issue of “*increase in military expenditure and the necessity to make more effective the existing transparency measures*”, which arose during last year’s discussions and was mentioned by several delegations during the first informal meeting on the 17 February 2009, be highlighted for future discussions, under agenda item 7. The proposal was made on the basis of the coordinator’s observation that the issue, to some extent, seemed to enjoy some level of acceptance and that no objection to it had been raised, as well as its relevance to the agenda. Meanwhile, as emphasized by the coordinator, the other issues would remain on the list as recorded and could be taken up whenever delegations deemed it necessary.

11. In commenting the suggestions of the coordinator, delegations were of the view that the proposal is inspiring in its effort to shed light on common positions, and in principle there was no objection to it. While some delegations had no difficulty in supporting the proposal, there were some doubts expressed that discussion on the suggested issue would give more weight to it while disregarding the other issues. Some delegations also questioned the mandate of the informal discussion under the role of the CD and commented on the work that was underway elsewhere, for instance under the framework of the First Committee of the UN General Assembly, with regard to military expenditure.

12. Mr. President, I would like to take this opportunity to underscore the support of delegations towards the continuation of discussions on issues that are relevant to this agenda item. This will allow member states to share information regarding their policies and initiatives to increase transparency in armaments.

13. It was considered that discussion of these issues under this agenda item would enhance member states’ understanding in order to help update the Conference on current developments in the international security situation.

14. It is my sincere hope that, while we support the importance of maintaining the discussions under this agenda item 7, we can continually try to find innovative approaches to move transparency in armaments forward, with the ultimate objective to enhance our collective security. In this regard, it is pertinent that the more active role played by the presidents of the Conference is crucial.
