Germany’s Views on an FMCT

Pursuant to resolution 67/53 entitled “Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices”, supported by Germany and its partners in the Non-Proliferation and Disarmament Initiative (NPDI), adopted by the 67th General Assembly on 3 December 2012, and by which the Secretary-General seeks the views of Member States on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, the Federal Republic of Germany presents the following position:

1. Introduction

Germany actively contributes to United Nations forums on disarmament, arms control and non-proliferation. Regarding nuclear non-proliferation and disarmament, Germany attaches fundamental importance to the early commencement of negotiations on a treaty banning the production of fissile material, i.e. material that can sustain a fission chain reaction for nuclear weapons or other nuclear explosive devices (hereinafter: “FMCT”, without prejudice to its actual scope).

Germany considers FMCT negotiations to be not only the next logical step but also a sensible step towards nuclear disarmament and a world without nuclear weapons. Germany also considers an FMCT an important non-proliferation instrument. While regretting the persistent stalemate in the Conference on Disarmament which has prevented it from taking up negotiations on an FMCT for well over a decade, Germany welcomes the opportunity to present key elements of its views on an FMCT within the United Nations in the context of the establishment of a Group of Governmental Experts on this subject.

2. Reasons for an FMCT

Progress on an FMCT is overdue. There are compelling reasons why an FMCT is often referred to as the “next logical step” in nuclear disarmament and non-proliferation. The benefits are potentially huge; an FMCT would:

- offer a unique opportunity to establish a non-discriminatory common treaty regime by creating essentially equal obligations for nuclear-weapon possessor states and non-nuclear-weapons states alike;
- cap the quantitative nuclear arms race and thereby instil new momentum into the process of nuclear disarmament, thus helping to maintain the integrity of the Non Proliferation Treaty (NPT);
- contribute to the implementation of Article VI of the NPT;
- enhance nuclear material security, i.e. enhance security, control and accounting regarding fissile material, including reduction of the risk of fissile material falling into the hands of non-state actors;
- establish transparency with regard to nuclear complexes where transparency does not yet exist, thereby allowing the nuclear-weapon possessor states to demonstrate that they deal with their nuclear weapons complexes in a responsible manner, are accountable and are also taking a step towards establishing a baseline for further nuclear disarmament;
• draw additional states into the global non-proliferation regime;

• contribute to regional security and stability, particularly in South Asia, the Middle East and on the Korean Peninsula.

It is therefore not surprising that the United Nations General Assembly adopted by consensus in 1993 the objective of negotiations for an FMCT (UN General Assembly Resolution 48/75(L, 1993). Banning the production of fissile material for nuclear weapons or other nuclear explosive devices by way of a multilateral treaty is an a most important and essential building bloc on the road towards the long-term goal of nuclear disarmament.

3. Minimum requirements for an FMCT

On a general note, Germany aims for negotiations as recommended in Action 15 of the Final Document of the 2010 NPT Review Conference.

An FMCT should encompass the following provisions:
• a ban on the production of “direct use” fissile material for nuclear weapons (in accordance with the IAEA definition);
• a ban on the transfer of fissile material produced for civilian use before or after entry into force of the FMCT to nuclear weapons-related purposes;
• a ban on the re-use of fissile material derived from disarmament measures and converted to or assigned for civilian purposes (principle of irreversibility);
• a ban on activities related to the acquisition and/or transfer of fissile material for nuclear weapons and other nuclear explosive devices to third countries (similar to Art. I and II of the NPT);
• transparent and verifiable dismantlement procedures for facilities related to the production and/or storage of fissile material for nuclear weapons and other nuclear explosive devices or their conversion for civilian use.

4. Scope of an FMCT

Negotiations should be based on the following elements in the mandate as contained in CD/1299 of 24 March 1995, which stipulate work 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”.

Whether or not, and if so to what extent, an FMCT should address pre-existing stockpiles of fissile material for nuclear weapons and other nuclear explosive devices is one of the most crucial questions, and at the same time one of the most difficult. Germany is aware of fundamentally opposing views among states in this regard. While some states are against addressing pre-existing stockpiles in a future treaty, others underline that any agreement on a treaty would require the inclusion of pre-existing stockpiles, even including reductions of such material.

Germany is of the view that a compromise between the two sides will be necessary to make such a treaty feasible. This could be done in various ways in this context, but not necessarily as an integral part of an FMCT. The following elements would appear to merit consideration:
• appropriate transparency measures, also with a view to ensuring effective verifiability;
• political declarations by relevant actors with a long-term view to reducing respective stockpiles;
• a Fissile Material Control Initiative (FMCI) as a complementary, voluntary, multilateral security and transparency arrangement;
• the conclusion of additional protocols on the reduction of stockpiles at an appropriate time;
• model agreements between the IAEA and individual states on the submission to IAEA safeguards of material which exceeds explosive needs.

5. Verification

The system of verification of an FMCT will naturally depend on the treaty’s scope and, to a certain degree, on financial considerations.

Germany is of the view that a non-discriminatory, multilateral, and effective system of verification requires in principle that the same rules and regulations apply to all states parties.

Ideally, the entire civilian nuclear fuel cycle in all states parties to a future treaty should be placed under the respective IAEA safeguards (INFIRC/153 and, preferably, INFIRC/540) or equivalent regulations, using the advantages of “managed access” procedures. This could at the same time serve to detect any possible secret production of fissile material.

Effective means of verification would also have to be agreed regarding other facilities, inter alia for the production of enriched uranium used for naval military purposes (cf. no. 7).

6. Role of the IAEA

Given its many decades of experience in the verification of NPT obligations and on the basis of providing it with the necessary resources and a mandate, the IAEA appears well-suited to implement any verification provisions of an FMCT. At the same time, the verification mechanism of an FMCT could also help improve the existing IAEA safeguards system.

7. Transparency

Germany believes that in addition to transparency measures for those categories of pre-existing stockpiles of fissile material which would be subject to verification, further transparency measures could be useful. Such measures would, however, not necessarily have to be part of the treaty proper, but could be dealt with in the framework of a Fissile Material Cut-Off Initiative (FMCI) or a respective UN register (cf. no. 4).
8. Germany's initiatives

Germany has made significant efforts towards commencing FMCT negotiations and continues to do so. Within the European Union Germany has repeatedly asserted the importance of commencing FMCT negotiations soon. In the Conference on Disarmament the German delegation argues vigorously in favour of the adoption of a programme of work which includes the start of FMCT negotiations. In 2008 Germany submitted to the Preparatory Committee to the NPT Review Conference, as a conceptual contribution, a Working Paper entitled "Creating New Momentum for a Fissile Material Cut-Off Treaty". In 2009 the Federal Foreign Office hosted an international conference in Berlin to support the CD's work by inviting senior experts and diplomats to discuss key aspects of a future FMCT.

Pursuant to resolution A/RES/66/44 adopted by the 66th General Assembly, Germany and the Netherlands organized two scientific expert meetings in Geneva in 2012 to help prepare the ground for FMCT negotiations by way of technical discussions. The fact that experts from more than 45 states took part in each of these meetings underscores our high profile on FMCT-related matters.

9. Conclusion

Germany shares the UN Secretary-General's view that the consensus rule as it exists in the Conference on Disarmament comes with a great responsibility. A situation where the international community has been prevented for years from even starting a negotiating process that would be a key step towards a world free of nuclear weapons poses a serious challenge to the ability of the multilateral system to make meaningful substantive progress in the field of international security.

For this and other reasons, Germany believes that blocking the commencement of FMCT negotiations, which condemns the world's sole multilateral disarmament negotiating forum to further stalemate, is not in the well-understood long-term interest of any state.

Germany continues to hope that the Conference on Disarmament will manage to agree as soon as possible on a programme of work which includes negotiations on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices. In this case the Group of Governmental Experts as foreseen in UNGA Resolution 67/53 would conclude, submitting its work via the Secretary-General to the Conference on Disarmament.