Brazilian views on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices including possible aspects thereof, for the UNSG report on the subject to the General Assembly at its sixty-eighth session.

Brazil is committed to the objective of nuclear disarmament, for these weapons constitute the most serious threat to humankind and to international peace and security. Brazil regrets the fact that, more than forty years after the entry into force of the Non-Proliferation Treaty and more than twenty years after the end of the Cold War, commitment by Nuclear-Weapons States with regard to transparent, verifiable and irreversible disarmament of their nuclear arsenals remains elusive.

Furthermore, Brazil recalls that the use of nuclear weapons is inconsistent with International Humanitarian Law, notably the rules of distinction, proportionality and precaution, as well as the prohibition on causing superfluous injury or unnecessary suffering and the prohibition against causing widespread, severe and long-term damage to the environment. Given the grave humanitarian consequences of the use of nuclear weapons, Brazil believes that all States should renew efforts with a view to their complete elimination.

In advocating the early negotiation of an FMCT in the Conference of Disarmament, which is the sole multilateral forum for negotiations on disarmament, Brazil believes that a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices should be an effective contribution to the achievement of the goal of a world without nuclear weapons.

It is the view of Brazil that given the amount of highly enriched uranium and plutonium already accumulated by States possessing nuclear weapons, such treaty would only bring added value to nuclear disarmament if it contains specific commitments related to past production, inasmuch as the present stocks are enough to be used in nuclear weapons for many centuries to come. Brazil has doubts whether a treaty that merely cuts future production of fissile material is in line with the aspirations of the international community in achieving a world free of nuclear weapons.

The treaty should address both future and past production. However, the manner in which it will deal with each of them need not necessarily be the same. It is clear that future production of fissile material for nuclear weapons and other explosive devices should be prohibited outright. With regard to past production, it will be one of the tasks of the GGE to explore possible options, including a phased process of destruction of all pre-existing weapons-grade fissile material.

Motivated by a desire to contribute to overcome the difficulties that have surrounded this debate, Brazil proposed to the Conference on Disarmament, in 2010, a conceptual working paper (CD/1888) on a possible general structure for a treaty on fissile material for nuclear weapons or other nuclear explosive devices, comprising a framework or umbrella treaty and two protocols, with verification
mechanisms, albeit different ones. Brazil believes that the very idea of having an umbrella treaty and two protocols would provide a framework with sufficient negotiating space for national positions on the FMCT to be taken care of.

The umbrella treaty would just contain provisions on objectives, definitions and the usual final clauses, such as entry into force, depositary, amendments, as well as modalities for participation of States. The first protocol would prohibit future production of missile material for nuclear weapons or other explosive devices. This prohibition would be subject to a specific verification mechanism. The second protocol would deal with pre-existing fissile material for nuclear weapons or other explosive devices. The verification mechanism concerning this second protocol would be necessarily different from the one devised in the first protocol.

With the comprehensive safeguards agreements, Non-Nuclear Weapon States already have in place commitments tantamount to an FMCT. The purpose of the comprehensive safeguards agreements entered into by these states pursuant to Article III of the NPT is precisely to ensure that nuclear material will not be used for nuclear weapons or other nuclear explosive devices. The comprehensive safeguards agreements provide for safeguards being applied not only in facilities which produce fissile material (enrichment and reprocessing facilities), but also in facilities which contain such material, such as for instance nuclear power plants.

Accordingly, with regard to Nuclear Weapon States, an FMCT would have to provide for IAEA safeguards being applied in all facilities containing fissile material (with the exception of the material already present in weapons systems themselves) or else nothing would prevent nuclear material already in use in peaceful activities from being diverted to the refining of nuclear weapons.

Although acknowledging that a treaty on fissile material would be the next multilateral legally binding instrument covering both nuclear non-proliferation and nuclear disarmament endeavors, Brazil takes this opportunity to reiterate that the treaty is not, and it cannot be, an end in itself. Accordingly, the negotiation of an FMCT should be an essential component of a larger legal framework, that of a Nuclear Weapons Convention, supported by mutually-reinforcing instruments aimed at the complete elimination of nuclear weapons in a clear timeframe.