
Conference on Disarmament

14 September 2010

Original: English

Letter dated 14 September 2010 from the President of the Conference on Disarmament 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 2010 session on agenda items 1 to 7

On June 2010, the Conference on Disarmament agreed upon the schedule of informal meetings on its seven agenda items and the nomination of the coordinators, which are contained in document CD/WP.560.

According to CD/WP.560, the informal meetings on agenda items 1 and 2 were chaired and coordinated by Sweden (first four meetings) and Algeria (last four meetings), agenda item 3 by Brazil; agenda item 4 by Bangladesh, agenda item 5 by Belarus, agenda item 6 by Indonesia, and agenda item 7 by Finland. These seven coordinators submitted to the President of the Conference oral reports on the discussions on their respective agenda items.

In my capacity as President of the Conference and through you, Mr. Secretary-General, and on behalf of all six Presidents, I would like to express my sincere gratitude to all the seven coordinators for the important work done under their professional guidance. The seven coordinator's reports attached to this letter in annexes I to VII reflect serious debates and inputs which should enrich future discussions as relevant references for the work of the Conference.

Consequently, I would be grateful if this letter, together with its seven annexed document could be issued as an 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) Anatole Fabien Marie **Nkou**
Ambassador
President of the Conference on Disarmament

Annex I

Text of the oral report of the Coordinator to the President of the Conference on Disarmament on the informal meetings on agenda items 1 and 2, with a general focus on nuclear disarmament

Submitted by Mr. Idriss Jazairy, Ambassador and Permanent Representative of Algeria

1. Pursuant to Decisions CD/WP.560 and CD/WP.560/Amend.1, informal debates were held on items 1 (Cessation of the nuclear arms race and nuclear disarmament) and 2 (Prevention of Nuclear War, including all matters related thereto) of the agenda of the Conference on Disarmament, with a general focus on nuclear disarmament. The four sessions devoted to this theme took place on 28 June, 29 June (two sessions) and 13 July 2010.

2. Based on the work of the last thirteen years on this issue, and with the aim of fostering the start of the related substantive work in the context of an agreed programme of work for the Conference, the views of the delegations were sought on the five following areas:

- (a) Concept of nuclear disarmament;
- (b) Legal framework;
- (c) Other related legal instruments;
- (d) Mandate of the Conference on Disarmament; and
- (e) Transparency and confidence building measures.

3. In order to facilitate the proceedings, the following documents were distributed to the delegations:

- (a) A non-paper prepared by the Co-ordinator highlighting some landmarks related to nuclear disarmament;
- (b) The conclusions of the three last years relevant Coordinators;
- (c) The Secretariat's listing of the official documents of the CD on nuclear disarmament since 1993.

The delegations were provided with summaries of the four meetings.

4. At the first meeting, useful introductory remarks were made on various aspects of the issue of nuclear disarmament. A valuable presentation was made on the Model Convention on the Nuclear Weapons. This working paper presented officially by States at the General Assembly of the United Nations as well as at the NPT Review Conference, contains legal, technical and political matters that should be addressed in order to establish and maintain a total ban on nuclear weapons.

5. All delegations who expressed themselves renewed their commitment to achieving a nuclear weapons free world. The Group of 21, referring to the 15th Non Aligned Movement Summit of Sharm El Sheikh, stated that is time to start negotiations in the Conference on Disarmament to attain this goal. The following preliminary ideas were stressed or discussed:

- (a) Practicability and relevance of the call for nuclear disarmament;

(b) Priority to be given to nuclear disarmament as well as to the establishment of an ad hoc committee to negotiate a legally binding nuclear disarmament instrument in a time-bound framework with specified deadlines to eliminate nuclear weapons, including on the basis of the Model Convention on nuclear weapons;

(c) While pursuing the goal of nuclear disarmament, measures should be taken to reduce the nuclear danger;

(d) Interdependence between non proliferation and nuclear disarmament;

(e) Need for a structured discussion with the aim of achieving a comprehensive ban on nuclear weapons by or beyond 2025;

(f) Feasibility of establishing a timetable for nuclear disarmament, as is the case in many other areas such as the eradication of poverty;

(g) Need for ending the legacy of the Cold War represented by the nuclear weapons, the doctrine based on deterrence and the granting of “nuclear umbrellas” and on the stationing of nuclear warheads in non-nuclear States;

(h) Concerns expressed regarding the absence of progress in nuclear disarmament and the continuing modernization and development of nuclear weapons with a call for a move towards irreversible and verifiable multilateral nuclear disarmament.

6. Some Nuclear States recalled their unilateral actions in favour of reducing nuclear arsenals. They underscored the importance of the rich debate that took place on the issue of nuclear disarmament during the last NPT Review Conference. They reiterated their preference for an approach based on a framework of agreements whose components are mutually reinforcing rather than on a convention to ban the use of nuclear weapons.

7. Starting with the second session, the debate became more focused. The question arose on how to address the issue of nuclear disarmament and whether a legal framework was needed. There was no unanimity on a particular option in this regard.

8. Based on a set of views, especially from those States that are in favour of an immediate comprehensive nuclear disarmament, it was said that the Conference on Disarmament should proceed without delay with negotiations on a binding multilateral instrument banning nuclear weapons.

9. For several delegations that echoed this position, the call for a nuclear weapons free world will remain valid so long as full nuclear disarmament is not achieved. Several arguments were put forward in support of this vision:

(a) The root causes of problems and conflicts lie in the possession of nuclear weapons which must be totally eliminate;

(b) Nuclear disarmament is an international legal obligation under article 6 of the NPT, a treaty which is currently the only multilateral disarmament instrument. Article 6 should then be implemented without further delay. The States members should show willingness to move in that direction to end the current impasse on the issue of nuclear disarmament. Given the fact that several past commitments in favour of implementation of article 6 have not been honoured, the modest progress achieved so far justifies the need for a global effort;

(c) A balance was supposed to be maintained in the implementation of the three pillars of the NPT. Non-nuclear States renounced nuclear weapons with the understanding that this would lead to such a balance. However, this has not been the case so far and it is not acceptable that discrimination continue;

(d) The NPT is not a universal treaty. This calls for a new framework to include all States, assume their legitimate concerns and ensure a universal commitment that goes beyond the scope of the obligation of the present article 6 of the NPT;

(e) It had not been possible to conclude a nuclear weapon convention so far, this had not to be an excuse to give up the pursuit of such an agreement in the future;

(f) States members accepted to conclude conventions on chemical weapons and biological weapons. What prevents them from concluding a convention on nuclear weapons?

10. According to a second set of views, it was important to create the appropriate conditions, in terms of maturity, for negotiations on a nuclear ban convention. Some proponents of this approach were somewhat cautious as to the practicability of pursuing the goal of a nuclear weapons free world, arguing that the so-called “Global Zero” option has rather an academic and theoretical concept and cannot therefore be reasonably pursued as a goal by States.

11. It was felt preferable to move along a pragmatic and progressive path by adopting a “step by step” approach through selecting feasible measures that lead to significant reductions in the numbers of nuclear warheads.

12. The entry into force of the CTBT, the negotiations on an FMCT and the enhancement of the level of confidence, in particular in terms of information on measures taken within the framework of bilateral or plurilateral disarmament, were referred to as examples of practical steps in this regard.

13. The views expressed in support of this approach were based on the following main arguments:

(a) Realism, pragmatism and gradualism should prevail while addressing nuclear disarmament issue;

(b) It is a fact that throughout the last sixty years, all the significant reductions in the number of nuclear warheads have been made not in a multilateral perspective, but bilaterally or unilaterally;

(c) There should therefore be negotiations on a framework of agreements with mutually reinforcing components that would allow further reductions of the existing nuclear arsenals. This gradual approach is one of the two recognised options by the UN Secretary-General in his plan for nuclear disarmament;

(d) The Conference on Disarmament should take inspiration from the work of the last NPT Review Conference where the States Parties took obvious practical measures that accompany nuclear disarmament;

(e) Article 6 of the NPT is actually a framework obligation under which all States Parties have to work for a safer world. This requirement is so general that it goes beyond nuclear disarmament from which it can not be dissociated, encompassing as it does the goal of general and complete disarmament pursued in article 6;

(f) Nuclear disarmament should not be seen as an end in itself. Accordingly, it is not the option of “Global Zero” which should be pursued but the ways and means that lead to achieving an ever safer world;

(g) Nuclear disarmament might be sought only if it is a prerequisite for achieving such a safer world. This does not seem to have been the case hitherto. Indeed, disarmament progress achieved so far appear as the consequence of the prevailing peace and not the cause. In other words, more efforts in terms of conflict resolution lead to further disarmament measures.

14. In addition to the above-mentioned trends, some delegations, showing more flexibility on the issue of the legal framework, believe that what should be important is not the shape of the legal framework but its impact on the goal of the “Global Zero”. Therefore they averred that the Conference on Disarmament could carry out its mandate by taking into account all the approaches that promote this goal.

15. The third session was devoted to the issue of the mandate that could be assigned to the Conference on Disarmament. This is a critical issue because it is related to the programme of work of the Conference which is facing serious difficulties.

16. Given the present stalemate in the Conference, and in order not to confine the debate to academic assumptions, the participating delegations were invited to comment on a number of options regarding the mandate of the Conference including the proposals which are being considered as well as the alternative contained in the final document of the last NPT Review Conference.

17. Few comments were heard in this regard. Similar to what has been witnessed for the legal framework, the reactions were not homogeneous.

18. Several delegations supporting the approach of a total and immediate ban on nuclear weapons demanded that the Conference on Disarmament be provided with a negotiating mandate. They believed that this mandate should be as broad as possible because the negotiations could result in one or more instruments. It was believed by them also that any programme of work had to be based on such a mandate. In addition, this mandate should not be stripped of its substance through pre-conditions, it was emphasized. Another view was expressed that agenda item 2 is an equally important item and accordingly should be part of any proposal on CD’s programme of work. In addition, it was emphasized that while preparing a proposal on the CD’s programme of work, all the related CD agenda items should be treated on an equal footing.

19. Some delegations in favour of the gradualist approach stressed the fact that negotiation should not be an end in itself. The whole process must be assessed, accordingly, in a spirit of pragmatism and realism.

20. Other issues raised related to the other instruments that could accompany nuclear disarmament, including the establishment of a Nuclear Weapons Free Zone in the Middle-East, as well as transparency and confidence building measures. They were not discussed extensively. However, the elements that have previously been identified in this regard seemed to still be valid. Specifically, the establishment of Nuclear Weapons Free Zones was seen as a contribution to nuclear disarmament.

21. In conclusion, the four sessions devoted to the theme of nuclear disarmament proved a very useful exercise since they provided Member States with a renewed opportunity to share their views on different matters related to one of the topics that are commonly seen as “core issues” in the Conference on Disarmament.

22. The atmosphere during the meetings was positive and constructive. The debates were rich, focused and interactive. This was indicative of the extent of work that awaits the Conference on Disarmament when it will approach its substantive work on the issue.

23. However, the views are still divided on many fundamental related issues including the legal framework and the mandate of the Conference on Disarmament.

24. But an encouraging point to note is that differences and disagreements do not relate in all cases to the fact that some States possess nuclear weapons and others do not.

25. Views were expressed on various issues pertaining to nuclear disarmament, but the prospects for substantive discussions can not be dissociated from the context of an agreed

programme of work in the Conference on Disarmament which is still unfortunately out of reach.

26. Finally, we believe that frequent informal discussions on this topic in the Conference were helpful in narrowing differences and enhancing mutual understanding between member States.

Appendix I of annex I**Work Plan presented by the Co-ordinator for the informal debate on Agenda item 1 and 2, with a general focus on nuclear disarmament**

1. At the inaugural session of the informal debates on items 1 and 2 of the agenda of the Conference on Disarmament, with a general focus on nuclear disarmament, the Co-ordinator referred to the content of Decisions CD/WP.560 and CD/WP.560/Amend.1. He made the following introductory remarks:

(a) Nuclear weapons are explosive devices that use nuclear reactions. They are considered as weapons of mass destruction, like the chemical and biological weapons;

(b) The negative effects of nuclear weapons do not, moreover, distinguish between military and civilian targets and undermine in a sustainable manner the environment;

(c) Because of their extensive destructive power, they are considered as a separate category of weapons of mass destruction;

(d) The first nuclear weapons were developed during the Second World War. The disastrous nuclear explosions of 6 and 9 August 1945 sparked a frantic race by States towards achieving nuclear weapons status.

(e) In reaction to these global developments, nuclear weapons have been the subject of a number of international legal instruments of mitigation. The most important are the Treaty on the Non-Proliferation Treaty (NPT) and the Comprehensive Test Ban Treaty (CTBT). The latter is not yet in force but it is likely to take effect in the near future;

(f) Exports of nuclear materials are also subject to international controls. These controls are administered by three organizations: the Zangger Committee, Nuclear Suppliers Group (NSG) and the Control Regime of missile technology;

(g) At the regional level, the nuclear weapon-free zones are part of this overall issue of nuclear disarmament / non-proliferation. They aim generally rather to non-proliferation in areas that were not nuclear. In the specific case of the Middle East, the realization of the nuclear weapon-free zone is however suggested within the dimension of nuclear disarmament rather than non-proliferation;

(h) At the bilateral level, during the Cold War, several bilateral arms control initiatives related to nuclear weapons have been concluded. These initiatives have been continued and strengthened after the end of the East-West ideological confrontation;

(i) Throughout recent years, calls have increased in favour of banning nuclear weapons. The realization of a world without nuclear weapons has become a widely shared aspiration. This was translated recently by the three main resolutions adopted by the 64th session of the UNGA under number 53, 57 and 59, as well as by the final document adopted at the recently held NPT Review Conference;

(j) A Model of Nuclear Weapons Convention, prepared by experts on disarmament and nuclear analysts, was submitted in 1996 and adapted in 2007 by States within the framework of the NPT and the General Assembly;

(k) The Conference on Disarmament, the sole multilateral forum for negotiating disarmament treaties, has included nuclear disarmament in its agenda. However, it has never been able to establish a subsidiary body to deal with nuclear disarmament, as it is regularly asked to;

(l) In addition to the absence of a programme of work, the lack of progress stems somewhat from the differing approaches maintained by the nuclear and non-nuclear States;

(m) Throughout the last thirteen years, working papers were presented to facilitate discussion on this topic. Official statements were made in plenary. Useful informal debates took place under the guidance of Co-ordinators.

2. On this basis, the Co-ordinator identified five discussion areas on which the delegations were invited to express their views:

- (a) Main highlights of nuclear disarmament;
- (b) The legal framework that could govern the prohibition of nuclear weapons;
- (c) Other legal instruments relating to nuclear disarmament;
- (d) The mandate in the programme of work on nuclear disarmament within the Conference on Disarmament;
- (e) Transparency and confidence building measures.

3. The aim was to stimulate the debate on the key issue of nuclear disarmament and facilitate the launch of substantive work in the Conference of Disarmament within the context of the efforts being made for the adoption of a programme of work.

4. Following general comments made at the first meeting, and in order to concentrate the debate on concrete measures, the Co-ordinator proposed to focus during the remaining sessions on more specific issues.

5. With regard to the issue of the legal framework, he suggested, under the first approach that advocates the conclusion of a legal instrument, examining the different aspects of the Model Convention on nuclear weapons. These aspects relate to the following:

- (a) General obligations;
- (b) Declarations;
- (c) Calendar of nuclear disarmament;
- (d) Verification;
- (e) National Implementation Measures;
- (f) Rights and obligations of individuals;
- (g) Agency responsible for implementation;
- (h) Nuclear material;
- (i) Cooperation, compliance and settlement of disputes;
- (j) Links with other international agreements;
- (k) Financing;
- (l) Optional protocol on assistance in the field of energy.

6. Under the second approach based on a framework of agreements with mutual reinforcing components, some previously identified instruments were recalled:

- (a) A global agreement among nuclear weapon States on “no-first-use” of nuclear weapons;
- (b) A universal and legally-binding agreement on non-use of nuclear weapons against non-nuclear weapon States;

- (c) A treaty on fissile material;
- (d) An agreement on specific and legally binding measures to achieve the universalization of the NPT;
- (e) A multilateral agreement to reduce the operational readiness of deployed nuclear systems;
- (f) An agreement on the establishment of multilateral centers for the provision of nuclear fuel cycle services;
- (g) A global regime governing the possession and use of missiles;
- (h) An agreement giving a global character to the INF Treaty;
- (i) A nuclear weapons free zone in the Middle-East

7. The Co-ordinator commented on the timeframe for nuclear disarmament. He recalled the suggested idea of a “minimization” threshold for nuclear weapons by 2025 to be followed by their “elimination” thereafter and the views expressed at the NPT Review Conference to not set a mandatory calendar.

8. After reviewing the legal framework, the Co-ordinator suggested to place the discussion within the context of the work of the Conference on Disarmament and try to address the issue of the mandate to be assigned to the Conference with regard to nuclear disarmament in the context of the adoption of the much-awaited programme of work.

9. The two following elements were mentioned in order to guide the discussions:

(a) Document CD/WP.559 containing the draft programme of work under consideration in the CD proposes the establishment of a working group under agenda item 1 in order to exchange views and information on practical steps for progressive and systematic efforts to reduce nuclear weapons with the ultimate goal of their elimination, including on approaches toward potential future work of a multilateral character;

(b) The last NPT Review Conference which more concisely invited the Conference on Disarmament to simply establish a subsidiary body on nuclear disarmament, as part of an agreed comprehensive and balanced program of work. “Action 6: All States agree that the Conference on Disarmament should immediately establish a subsidiary body to deal with nuclear disarmament, within the context of an agreed, comprehensive and balanced programme of work”.

10. The four meetings were held within the above-suggested parameters.

Appendix II of annex I**Non paper prepared by the Coordinator for the informal debate on
Agenda item 1 and 2, with a general focus on nuclear disarmament**

1. Within the framework of Decision CD/WP.560 of 7 June 2010, the debate during this four session debate deals with an issue that is commonly termed a “core-issue”: agenda item 1 and 2 of the Conference on Disarmament, with a general focus on nuclear disarmament.
2. The negotiations on nuclear disarmament have not witnessed in recent years progress similar to that attained before the end of 1996, when the Conference on Disarmament was able to negotiate the CTBT whose long-awaited entry into force is coming within reach.
3. However, this debate remains relevant. Increased calls for the realization of the goal of Nuclear Weapons Free World are a testimony in this regard.
4. Indeed, each of the substantive agenda items of the Conference on Disarmament is linked in an essential manner to this goal.
5. Under the last version of the draft program of work of the Conference on Disarmament, the Conference is supposed to initiate an exchange of views and information on practical measures for progressive and systematic efforts to reduce nuclear weapons with the ultimate goal of their elimination, including on approaches toward potential future work of a multilateral character.
6. This is a broad and complex mandate, but a mandate that could adequately meet the challenges posed by the continued existence of thousands of nuclear warheads in the stockpiles of the Nuclear Weapons States and by the continuing threat of development of new generations of weapons as well as by traditional and new threats posed by nuclear proliferation.
7. Nuclear disarmament is an obligation under international law, as provided for, several decades ago, by Article VI of the NPT. The International Court of Justice recalled this obligation unanimously in its advisory opinion of 8 July 1996 on the legality of the threat or use of nuclear weapons.
8. Unequivocal commitments have been made in the framework of the NPT Review Conferences of 1995 and 2000 by the Nuclear Weapons States to achieve a complete elimination of their nuclear arsenals. This commitment was reaffirmed in the Final Document of the Review Conference of May 2010. It was agreed that the Conference on Disarmament should immediately establish a subsidiary body on nuclear disarmament, as part of an overall and balanced program of work. It was agreed that the nuclear disarmament process and other measures should be pursued within an agreed legal framework which, a majority of States parties believe, should include specified timelines.
9. Nuclear disarmament is part of the goal of general and complete disarmament pursued in Article VI of the NPT as well as in numerous U.N resolutions, beginning by the outcome document of the first special session of the General Assembly devoted to disarmament in 1978.
10. More recently, in resolution 64/47, the General Assembly requested the Conference on Disarmament to start substantive work, based on the current global dynamics in favour of nuclear disarmament, on the progress already made and on the active participation of its members in its deliberations. In resolution 64/53, the General Assembly reiterates its call

upon the Conference to establish, in early 2010, as soon as possible and as a priority, an ad hoc committee on nuclear disarmament and to begin negotiations on a phased program of nuclear disarmament with the objective of total elimination of nuclear weapons within a specified timeframe.

11. The Secretary General of the United Nations presented a five-point plan for nuclear disarmament, which provides, *inter alia*, for negotiations on a nuclear weapons convention or an agreement on a framework of separate, mutually reinforcing instruments, supported by a strong verification system.

12. Several laudable initiatives have been taken unilaterally and bilaterally in the direction of the objective of nuclear disarmament. However, these are still insufficient in the view of many member States. They need, therefore, to be pursued and completed, at the multilateral level, by more significant, verifiable and irreversible actions.

13. Nuclear disarmament remains the only viable option that guarantees security for all against the use or threat of use of nuclear weapons. No country in the world should remain in possession of such weapons.

14. As such, it is necessary to commence multilateral negotiations on the complete elimination of nuclear weapons, preferably within a specified time horizon.

15. The negotiations should lead to a complete ban on the possession, development, stockpiling and use of nuclear weapons by all countries and provide for the destruction of these weapons.

16. Any move in this regard, in order to be effective, should aim at legally binding, verifiable, universal standards that could effectively contribute to the preservation of peace and security worldwide.

17. The standards to be promoted in this area should provide security for all States in a sense that their respective concerns are taken into account based on the principle of undiminished security for all.

18. These standards should finally reflect the interdependence between disarmament, non-proliferation and the peaceful uses of atomic energy.

Annex II

Oral Report on the first four informal sessions of the Conference on Disarmament on Agenda items 1 and 2 during the second part of the 2010 session

Submitted by Mr. Magnus Hellgren, Minister, Permanent Mission of Sweden

1. The first four informal sessions on agenda items 1 and 2, in accordance with the schedule agreed in WP.560 and WP.560/Amend.1, were held on 8 June (2 sessions), 22 June and 23 June, under my chairmanship/coordinatorship.
2. In accordance with WP.560, the chair/coordinator is required to report orally, in his personal capacity, on the discussions of the agenda items to the CD President, who will finalize the reports and transmit them through a letter to the Conference. The following constitutes my oral report.
3. The informal discussions during the four sessions covered many aspects of Agenda items 1 (“Cessation of the nuclear arms race and nuclear disarmament”) and 2 (“Prevention of nuclear war, including all related matters”). Several delegations made interventions referring to their overall approach and priorities related to these agenda items, focusing on both nuclear disarmament and nuclear non-proliferation and their interrelationship. Some specific proposals were mentioned, such as a Nuclear Weapons Convention and Reducing the operational readiness of nuclear weapons.
4. The vast majority of interventions in the discussions during these four sessions focussed on one particular aspect related to nuclear disarmament and nuclear non-proliferation, that is the proposed treaty to ban the production of fissile material for nuclear weapons and other nuclear explosive devices (FMCT).
5. The informal discussions on FMCT benefitted from the fact that several delegations had been reinforced by fissile material experts from capitals, both governmental experts and in some cases independent national experts.
6. The informal discussions were also stimulated by a number of expert presentations and the circulation of formal and informal papers related to the issue of fissile materials. Those included:
 - (a) A Fissile Material Cut-off Treaty: Understanding the Critical Issues (UNIDIR publication);
 - (b) Proposal on the structure of a treaty on fissile material for nuclear weapons or other nuclear explosive devices (CD/1888, submitted by Brazil);
 - (c) Suggestions for the substance of the Fissile Material Cut-off Treaty (non-paper by Australia);
 - (d) FMCT — Outline of possible verification provisions (non-paper by Australia);
 - (e) A Fissile Material Cut-off Treaty: Draft for discussion prepared by the International Panel on Fissile Materials (CD/1878);
 - (f) Towards a Fissile Material Cut-off Treaty: Issues, options and recommendations (non-paper by Mr. Bruno Pellaud, adviser to the Swiss Delegation to the Conference on Disarmament);

(g) Presentation on the dismantlement of the former fissile material production facilities at Pierrelatte and Marcoule (Power point presentation by the French delegation);

7. The discussion on fissile materials during these informal sessions also highly benefitted from the work done in previous years on this topic, most recently during the 2009 session of the Conference on Disarmament under the coordinatorship of Ambassador Giovanni Manfredi of Italy, as reported in CD/1877, annex II.

8. The discussions on fissile materials inter alia covered the following sub-issues:

- (a) What is the value of an FMCT?
- (b) What would be the disarmament and non-proliferation objectives of such a treaty?
- (c) Scope: new production/existing stocks;
- (d) Definitions: What is fissile material? What is production?
- (e) Verification: objectives, scope, legal arrangements, IAEA role;
- (f) Organisational issues: implementation, decision-making, secretariat, entry-into-force, etc.

9. The discussions were held in an informal and inter-active mode, with active engagement of a very large number of CD member States from all regional groups. It is my personal assessment that the constructive exchanges during these four sessions contributed to further deepening the understanding among delegations of each others perspectives/positions on aspects of agenda items 1 and 2, in particular on issues related to fissile materials. The informal discussions and the contributions (oral and written) of experts helped inform the consideration by CD member States of key topics and thus contributed to their preparations for future treaty negotiations.

Annex III

Report on informal meetings on Agenda item 3 “Prevention of an arms race in outer space” — PAROS

Presented by Mr. de Macedo Soares Ambassador and Permanent Representative of Brazil to the Conference on Disarmament

1. Four informal meetings were scheduled in order to discuss Agenda item 3 “Prevention of an arms race in outer space” — PAROS, in accordance with document CD/WP 560 (as amended by WP 560/Amend.1), adopted by the Plenary of the Conference on Disarmament on June 7th, 2010.
2. Coordination of these informal meetings was conducted by the Permanent Representation of Brazil to the Conference on Disarmament.
3. The meetings were held on June 9th, 14th and 30th and on July 5th, 2010.
4. In the first informal meeting, the Coordination offered a short presentation on international instruments related to outer space and a brief retrospective of the treatment of PAROS within the Conference on Disarmament. The delegations of Russian Federation and China introduced the discussions on a draft treaty on the Prevention of the Placement of Weapons in Outer Space, the Threat or Use of Force against Outer Space Objects — PPWT, based on document CD/1839. Speakers: China, Russian Federation, Iran (Islamic Republic of), Indonesia, Algeria, Democratic People’s Republic of Korea, Belarus, Malaysia, United States of America, India, Pakistan and Switzerland.
5. In the second informal meeting, by invitation of the Coordinator, the Delegation of Spain, on behalf of the European Union, made a presentation on the European Union’s draft Code of Conduct for Outer Space Activities. Speakers: Spain, Brazil, Russian Federation, Pakistan, China, Ireland, Germany, India, Iran (Islamic Republic of), Algeria and United States of America.
6. In the third informal meeting, at the Coordinator’s invitation, two experts on outer space — Mr. Attila Matas, of the International Telecommunications Union — ITU, and Ms. Theresa Hitchens, Director of the United Nations Institute for Disarmament Research — UNIDIR — addressed the CD on specific aspects related to the subject. Speakers: India (on behalf of the Group of 21), Brazil, Syrian Arab Republic, Iran (Islamic Republic of) and Canada.
7. In the fourth informal meeting, the Delegation of the United States of America offered a presentation on the “National Space Policy”. Speakers: Netherlands, United States of America, Iran (Islamic Republic of), Russian Federation, Canada, India, China, Pakistan, Ukraine.
8. Throughout all the meetings there were substantive discussions on many aspects of PAROS and there was an ample range of views on key elements of a potential instrument.

General remarks on the uses of outer space

9. Delegations expressed that outer space should be used solely for peaceful purposes and for the benefit of all countries and not become an arena for competitive strategic policies. Most member States believe that the placement of weapons in outer space could deepen global insecurity, affecting all countries. An arms race could be a destabilizing factor regardless of the category of weapons.

10. Recent technological advancements can lead to production of sophisticated space weapons, such as anti-satellites, which could become a threat to the security and safety of outer space. The development of new and unforeseen weapons may require review of present parameters of space security.

Considerations on the negotiation of an instrument

11. There was a general view that current international instruments are not sufficient to prevent an arms race in outer space. Many delegations believe that a specific international legal instrument is needed to strengthen or complement existing regimes. The Outer Space Treaty (OST) of 1967, for example, addresses only nuclear weapons and weapons of mass destruction (Article 4). In this respect, it was pointed out in the discussions that a legally binding instrument should have to take into account, not only the existing regulations, but also the fast development of technologies in order to have adequate specific language for new types of threats or weapons in space.

12. One delegation expressed that it could accept space-related arms control provisions only if based on the principles of equitability and verifiability and as long as it enhances the security of its country and of its allies.

Objectives of an instrument:

13. Delegations indicated their views of what should be the objectives of a PAROS instrument. According to interventions of different member States, the main goals should be: to prohibit the placement of weapons; to prevent military use of outer space; to forbid the destruction or damage of satellites from ground-based platforms; to ensure that space property is protected; and to assure that global satellite services operate without threats or risk of disruption.

Coordination among international organizations

14. Member States pointed out that, since there are different organizations regulating the use of outer space, there should be compatibility among instruments and coordination between the Conference on Disarmament and other bodies, such as the Committee on the Peaceful Uses of Outer Space (COPUOS), the International Telecommunications Union (ITU) and the United Nations General Assembly. There should be exchange of information among these bodies on each other's activities on the subject.

Readiness for negotiations

15. There were different views on the readiness ("ripeness") of the subject in the CD. Some delegations stated that it is urgent to start negotiations on a PAROS instrument, which in their view would be ripe for action. In that sense, the CD should move to the negotiation track. A majority of States support the early commencement of negotiations. The establishment of a Working Group could be the first concrete step to bring together all perspectives and proposals with a view to an instrument.

16. Some Delegations, on the other hand, believe that the present circumstances show that conditions for negotiations of a legally-binding instrument are not yet given. They believe that the first step could be the establishment of Transparency and Confidence Building Measures (TCBMs).

Possible modalities of instruments

17. Discussions among Member States pointed in different possible directions to arrive at a PAROS instrument. There were two basic possibilities: a legally binding treaty, and Transparency and Confidence Building Measures (TCBMs). There were also discussions

on the option to adhere voluntarily to other existing mechanisms, such as the European Union's draft Code of Conduct for Outer Space Activities.

18. There was also an extensive exchange of views on the validity of legally binding instruments vis-à-vis voluntary regimes.

Conclusion

19. In all four of the informal meetings there were substantive debates on the many approaches to the subject and on the options of an instrument, which still remains in consideration in the CD. Even though the discussions were not conclusive, there was considerable interest on the matter and it seems that member States are willing to further discuss the subject with an expectation to arrive at more concrete steps on the Item 3 of the agenda — PAROS.

Annex IV

Report to the President of the Conference on Disarmament (CD) concerning the work of the open-ended informal meetings devoted to consideration of 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 Mr. Md. Abdul Hannan, Ambassador and Permanent Representative of Bangladesh

1. Pursuant to the mandate contained in document CD/WP.560 of the Conference on Disarmament (CD), four open-ended informal meetings were held under my coordinatorship to consider agenda item 4, entitled “Effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”. These meetings took place on Wednesday 16 June, Friday 25 June, Thursday 1 July and Friday 16 July of 2010.

2. In order to assist a structured discussion, I had prepared and circulated a list of possible discussion topics on the subject in the form of a non-paper. A copy of the non-paper is enclosed with this report (appendix I). In preparing the non-paper, I drew from the work carried out on this subject in 2008, under coordinatorship of H.E. Mr. Babacar Carlos MBAYE, Ambassador and Permanent Representative of Senegal and in 2007, under the guidance of Ambassador Carlos Antonio Da Rocha Paranhos of Brazil.

3. In the first open-ended informal meeting, I briefed the delegations about my plan for conducting the four informal meetings. According to this plan, the discussion during the first informal meeting was centered on general exchange of views on Negative Security Assurances (NSAs). In order to stimulate our discussion, I explored the possibility of inviting some experts to make presentations on NSAs in the subsequent two meetings. Two well known Geneva-based experts on NSAs Professor Jozef Goldblat and Dr. John H. King agreed and their presentations, made on 25 June and 1 July 2010 respectively, were very informative and thought provoking. The delegations were appreciative of both presentations. The final informal meeting was devoted to discussions on the practical steps that might be taken in the CD in the future. At the last meeting, I also conveyed to the delegations the salient points of my oral report to the President of CD.

4. During his presentation, Professor Jozef Goldblat observed that the use or non-use of nuclear weapons against any country was a problem of global nature rather than regional. Professor Goldblat disagreed with the argument of retaining or using nuclear weapons to counter biological and chemical weapons. In this regard, he suggested that all possessors of nuclear weapons should exclude nuclear retaliation to an attack carried out with non-nuclear weapons, including biological and chemical weapons. As regards who will provide assurance of “no use” of nuclear weapons to whom, Professor Goldblat was of the view that everybody should provide assurances to everybody. Such non-use posture would minimize the importance of nuclear superiority, which would clear the way towards substantial reductions of nuclear forces, eventually leading to complete nuclear disarmament. He noted that the proper forum to deal with NSA should be the Conference on Disarmament. A copy of the presentation is enclosed (appendix II).

5. In his presentation, Dr. John H. King said that NSAs were declaratory arms control rather than substantive arms control that depended on goodwill and intentions of NSAs providers. He particularly noted that non-compliance of NSAs were relatively more

dangerous than other Treaties like Comprehensive Test Ban Treaty (CTBT) and a possible Fissile Material Cut-off Treaty (FMCT). Dr. King was of the view that all nuclear powers might use the ultimate escape clause of “supreme national interest” or “extreme circumstances” in case of changing their minds. He also observed that a Treaty on NSAs would help prepare the ground for a Nuclear Weapons Disarmament Convention and was of the view that such a Treaty would involve States that are not NPT members and would cause increased pressure from non-nuclear weapon States for nuclear disarmament. Dr. King finally drew the conclusion that a nuclear disarmament treaty would be the ultimate NSA. A copy of Dr. King’s presentation is enclosed (appendix III).

6. During the informal open-ended meetings, delegations took part in a very comprehensive, interactive and open discussion that would contribute to the work of CD. I was really encouraged and impressed by the level of engagement and participation. I consider that this would be helpful in furthering our understanding of various positions and views that delegations have on such a multidimensional issue as NSAs.

7. Delegations discussed the pros and cons of the existing instruments on NSAs and expressed diverse views on the effectiveness of such instruments. These instruments include the relevant resolutions of Security Council of the United Nations and the First Committee of the General Assembly of the United Nations, the unilateral declarations by nuclear weapon States, the outcomes of NPT Review Conferences, and the Nuclear Weapon Free Zone Treaties and their protocols.

8. Many delegations shared the view that the total elimination of nuclear weapons is the only absolute guarantee for NSAs. Pending this ultimate goal of a nuclear weapon free world, non-nuclear weapon States should have a legitimate right to a legally binding assurance for NSAs.

9. One delegation mentioned that all nuclear weapon States should make commitment for not using nuclear weapons against non-nuclear weapon States any time under any circumstances.

10. However, some delegations supported the decision taken in the 2010 NPT Review Conference outcome concerning NSAs. Some delegations identified the unilateral declarations by nuclear weapon States in mid-90s as important steps towards NSAs.

11. Some delegations noted the establishment of Nuclear Weapon Free Zones (NWFZs) as positive steps and important measures for guaranteeing NSAs, although not all nuclear weapon States have ratified the protocols of NWFZs. Delegations welcomed the existing NWFZs established by treaties of Tlatelolco, Rarotonga, Bangkok, Pelindaba, Semipalatinsk and Mongolia’s nuclear weapon free status and stressed the need for establishment of more NWFZs. One delegation considered NWFZs as interim arrangements to reach NSAs.

12. Conversely, others argued that security assurances should not be granted in the context of NWFZs because the idea of NWFZs may not be applicable to specific regions such as in the Middle East or South Asia. Therefore, they called for conclusion of a universal, unconditional and non-discriminatory legally binding instrument on NSAs. Delegations were of the view that such instruments will remove lack of trust between non-nuclear weapon States and nuclear weapon States, reduce nuclear danger, lay the foundation for negotiation and facilitate negotiation on other key issues of CD.

13. Concerning appropriate forum for negotiation of NSAs, most delegations were of the view that CD should be the most appropriate forum for negotiating a universal treaty on NSAs because it would be more inclusive.

14. One delegation mentioned that States pledging to denounce nuclear weapons should have guarantee for NSAs. For the States who have voluntarily given up nuclear weapons, NSAs should be provided under NPT, another delegation argued.

15. One delegation, however, questioned the necessity of a legally binding instrument on NSAs, while a number of other delegations disagreed on its nature and scope.

16. Some delegations viewed positively the 2010 US Nuclear Posture Review mentioning that it gave added assurance of “no-use” of nuclear weapons against non-nuclear weapon States and NWFZs.

17. Although there was no final agreement on any particular issue or area, the discussion had led to a good exchange of ideas and clarifications that would help subsequent work of CD on the issue of NSAs. Delegations offered their views on various aspects of NSAs, including the scope of any possible international framework, its nature and necessity as well as its beneficiaries. Useful discussion was held on how and where NSAs are to be provided and by whom to whom.

18. I am personally optimistic that the useful exchange of views that we had during the four open-ended informal meetings would be helpful in taking forward the issue of NSAs formally through further work in the Conference on Disarmament.

Appendix I of annex IV

**Non-paper
Open-ended Informal Meetings on NSA**

Possible Discussion Topics

- a) Existing framework
 - (i) United Nations Security Council resolution 984 (in 1995)
 - (ii) 1996 ICJ advisory opinion on the “Legality of the Threat or Use of Nuclear Weapons”
 - (iii) Unilateral declaration by NWS
 - (iv) UNGA First Committee Resolutions on NSA
 - (v) NWFZ Treaties
 - (vi) Report of CD Ad hoc committees and working group chairs/coordinators
- b) Recent developments that may have implications for future work on NSAs
 - (i) Declaration/ outcome of 2010 NPT Review Conference
 - (ii) 2010 US Nuclear Posture Review
 - (iii) Accession by NWS to Protocols of NWFZ Treaties
- c) Elements of a possible legally-binding instrument
 - (i) Definition of important terms: NWS, NNWS, negative and positive security assurances
 - (ii) NSA by regional (NWFZs) or global legally-binding instrument(s)?
 - (iii) Scope and structure of any legally binding instrument
 - (iv) Appropriate body/ forum for negotiation

Appendix II of annex IV**Ban on use — a prerequisite for nuclear disarmament
by Mr. Jozef Goldblat¹**

1. Although there is no evidence that the existence of nuclear weapons has prevented the outbreak of another world conflict, there is a fairly widespread belief that nuclear deterrence helped to maintain peace over several decades. At present, however, in the radically different post-Cold War international political climate, deliberate employment of nuclear weapons against any adversary is difficult to imagine. It is, therefore, surprising that the strategic doctrines, those concerning nuclear weapons and the declared readiness to use them remain basically unchanged.

2. Thanks for the invitation to speak on a subject I have been studying for many years.

3. First, allow me to correct certain inaccuracies. There is a tendency to consider Negative Security Assurances (NSA) as a measure linked directly, if not organically, with the Non-Proliferation Treaty. This is wrong. The idea of not using nuclear weapons against denuclearized regions is much older than the NPT. It was launched in 1957 by the Rapacki Plan concerning Central Europe. And in 1968 a conference of non-nuclear-weapon States was convened to obtain a formal non-use pledge from the big powers. Such a pledge would have been a desirable companion of the NPT. But the conference failed.

4. Incorrect is also the belief that the non-use postulate can be met through additional protocols to treaties establishing nuclear-weapon-free zones. In fact, only the protocols to the 1968 Treaty of Tlatelolco regarding Latin America have entered fully into force. And this happened several decades after its signing. The protocols related to the 1985 Rarotonga Treaty regarding South Pacific and to the 1996 Pelindaba Treaty regarding Africa have not entered into force. The protocol to the 1995 Bangkok Treaty regarding Southeast Asia has not been signed, whereas that related to the 2006 Semipalatinsk Treaty regarding Central Asia has not been agreed upon. Almost all signatories to the additional protocols have made interpretative statements equivalent to reservations. Some of them contradict the basic provisions of these protocols.

5. In any event, to use or not to use nuclear weapons against any country is a problem of a global nature rather than regional. The proper forum to deal with it is, therefore, this Conference. It is here that the issue of NSA figures on the agenda. And it is here that the nuclear-weapon powers have chosen to submit a formula for NSA. However, this formula, included in the unilateral statements made in April 1995 by France, Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America, was never a matter of multilateral discussion or even consultation with other participants in

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the CD. Of the nuclear weapon States, parties to the NPT, only China undertook never to use or threaten to use nuclear weapons against non-nuclear-weapon States or nuclear-weapon-free zones. Of the non-NPT nuclear-weapon possessors only India was prepared to provide such assurances.

6. The statements of the four powers I have mentioned were subsequently incorporated in the United Nations Security Council Resolution 984. But since they originated in the CD, they ought to be considered in the CD with a view to reaching a consensus document. Such has been the procedure ever since the establishment of the CD.

7. In the first place there is a need to clarify the conditions that must be met to render the existing assurances valid, as well as the exceptions that render them invalid.

8. According to the present official formulation of the NSA, the nuclear-weapon powers would be free to use nuclear weapons against a non-nuclear-weapon State in case of an attack on them or their allies, carried out or sustained in association with a nuclear-weapon State.

9. In this connection, the following problems arise:

(a) Should a State that possesses nuclear weapons have the right to employ them pre-emptively, that is, in anticipation of an attack, or only after the attack has actually occurred?

(b) What does "association" of the attacking State with a nuclear-weapon State mean when it invalidates the NSA? Does it mean direct participation in hostilities or only supplies of arms and/or other military or non-military assistance?

(c) Is the right of self-defence limited by the international humanitarian law of armed conflict, in particular, by the requirement of proportionality?

(d) In case of a total ban on use of nuclear weapons, would retaliatory use against a violator of the ban be considered a breach? If not, should only first use be prohibited?

(e) Should the revised NSA be incorporated in a new Security Council resolution, the binding force of which is in doubt, or in a legally binding instrument, such as a convention?

10. Some analysts argue that nuclear weapons are needed to counter biological and chemical weapons. Though classified as weapons of mass destruction, along with nuclear weapons, biological and chemical weapons have several important distinctive features. Under certain exceptional circumstances, the use of biological weapons could produce widespread fatalities and play a strategic role in war. This, however, is no more than a supposition; nobody in modern times has used bacteria or viruses to wage a war. Moreover, only one biological agent has so far been identified as a potential warfare agent, and reliable means to deliver it to multiple targets remain to be devised. In any event, it would be difficult, if not impossible, to recognize each unusual outbreak of a disease as an aggression committed with biological means of warfare. There would be no «signature» of the user. Attacks with biological weapons cannot, therefore, be deterred with threats of nuclear retaliation.

11. However, the probability of large-scale BW attacks can be reduced by strengthening the Biological Weapons Convention. A world-wide network of epidemiological surveillance could alert the world community to outbreaks of unusual diseases. Other measures might include vaccination to prevent contamination, as well as the development of therapy techniques to apply after contamination. Effective civil defence could diminish the effectiveness of biological weapons to the point where they no longer appear worthwhile.

12. Chemical weapons are militarily useful mainly as tactical weapons. Consequently, the level of destruction they may cause cannot exceed a relatively limited theatre of war. Though used on several occasions in the past, chemical weapons have never played a decisive role for the outcome of hostilities. The probability of these weapons being used can be reduced by strengthening the Chemical Weapons Convention. People could be protected from the effects of chemical weapons with masks, protective clothes and decontaminants; there exist warning systems with sensors capable of detecting chemical warfare.

13. Upon signing a new nuclear weapons limitation treaty, in April 2010, President Obama promulgated a modified version of the US strategic doctrine. From now on, the sole US objective in keeping nuclear weapons is to deter their use by an adversary. Nuclear riposte to an attack carried out with non-nuclear weapons, including biological and chemical weapons, has thus been excluded. This initiative has made a contribution to the humanitarian law of armed conflict. To be of real value, it should be followed by all the possessors of nuclear weapons.

14. During the debate on the subject of no use, a question was asked: Who would provide assurances, and to whom? The answer to this question is simple: everybody to everybody, if the assurances take the shape of a treaty open for signature or accession by all States, whether or not they possess nuclear weapons. Just as with the Partial Test Ban Treaty, which may be adhered to by all States, whether nuclear or non-nuclear.

15. The possibility to resort to nuclear weapons will not disappear after the conclusion of the proposed treaty. Nevertheless, a global ban on the use of these weapons would reinforce the firebreak separating conventional and nuclear warfare. It would, thereby, diminish the risk of nuclear war and weaken the political force of explicit or implicit threats to initiate such a war. Indeed, the doctrine of nuclear deterrence, in so far as it consists in threatening a nuclear attack in response to a non-nuclear attack, would have to be declared invalid. In discarding the war-fighting functions of nuclear weapons, the non-use posture would minimize the importance of nuclear superiority, whether quantitative or qualitative. It would, therefore, clear the way toward substantial reductions of nuclear forces and, eventually, to complete nuclear disarmament.

Appendix III of annex IV**Speaking Notes
Negative Security Assurances
CD Informal Meeting, 1 July 2010
by Mr. John H. King¹****I. Negative Security Assurances — General****A. Long an item on CD agenda. Much interest in the subject. But only limited progress, and not in the CD.**

1. *CD has tried to negotiate a NSA treaty for more than two decades*

Advantage is coverage would be universal – not just for members of one treaty regime or another

2. *Except for 1998, no AHC on this subject since 1994*
3. *Problem is procedural (CD linkage) and substantive (problems with NSAs)*

B. Strong arguments to negotiate NSAs in the NPT context as part of NWFZ treaties

1. *Latter has seen some success, indicating fewer problems in such forums*
2. *NSA protocols ratified by nuclear powers for Tlatelolco Treaty; US announced at the NPT revcon it will seek ratification for NSA protocols for SpNWFZ and Pelindaba. Other NFWZ treaties (Bangkok, Central Asia) have problems to be worked out.*

C. But my bottom line after much consideration is: CD should negotiate an agreement on NSAs, but not for the reasons you may think.**II. There are major problems with NSAs****A. Emphasize the have/have not status of NPT members**

1. *Only nuclear powers can give NSAs. All other powers cannot and must accept them*
2. *This can act as an incentive to acquire nuclear weapons and end subordinate status*
3. *Thus, paradoxically and perversely, NSAs can undermine the NPT*

¹ Mr. John King is currently the Coordinator for Disarmament Education and Training at the Geneva office of the UN-mandated University for Peace. He is also adjunct professor of International Relations at Webster University in Geneva. After military service with the U.S. Army Corps of Engineers, he joined the U.S. Foreign Service in 1971, serving in a variety of posts specializing in European political military affairs. He also served in the U.S. Arms Control and Disarmament Agency as the Deputy Assistant Director for Multilateral Affairs, and then in Geneva as Chief of Staff (Executive Secretary) for the U.S. Delegation to the Conference on Disarmament (1989-2000). In this role he had major negotiating responsibility for the Chemical Weapons Convention and later on, the Comprehensive Nuclear Test Ban Treaty. He was also served on U.S. delegations to various Nuclear Non-proliferation Treaty meetings and review conferences. Mr. King is a graduate of the U.S. Military Academy at West Point and holds a Ph.D. degree in International Relations from the Fletcher School of Law and Diplomacy at Tufts University.

B. Verifiability

1. *NSAs are declaratory arms control rather than substantive arms control*

(a) Are a statement of policy or intent rather than a concrete arms control agreement dealing with hardware that have physical elements that are visible and controllable;

(b) Depend on good will and intentions of NSA providers. But intentions can change while capabilities are always there;

(c) Thus NSAs difficult to encapsulate in a credible treaty. NWFZ protocols on NSAs are just a sentence or two.

C. Relative dangers of NSA treaty non-compliance

1. *Non-compliance with other treaties is relatively non-catastrophic*

(a) CTBT: a test is conducted illegally — no destruction, perhaps radiation. CTBTO can detect, monitor results;

(b) FMCT: material produced, stored illegally. An implementing organization can detect and verify. No physical damage done;

(c) Nuclear Weapons Convention: hardware can be detected and verified, with countermeasures taken before any destruction occurs.

2. *This is not so with NSAs*

(a) First inkling of non-compliance is an attack with nuclear weapons. Destruction and subsequent consequences will be uncontrollable;

(b) Although non-complying State may first signal intentions, it may also use surprise. Stated intentions will be hard to verify;

3. *Therefore, non-compliance with NSA treaty is qualitatively & quantitatively much greater than with other disarmament treaties*

D. All these problems also exist for NSA's first cousin — the No First Use pledge (NFU)**III. Position of the nuclear powers on NSAs — how credible are they?****A. NSAs (and NFU pledges) are given in good faith; nuclear powers intend to respect them. Intent is sealed in a legal bargain (NWFZ protocols)****B. But there are loopholes**

1. *US NSA statement has evolved from 1995 to now. Some conditionalities have been removed. A positive step. But reversible*

2. *Other NWS have stated varying conditions on NSAs. Some have stated none, which a pessimist would find worrying*

3. *But all nuclear powers have the ultimate escape clause of supreme national interest. This trumps even legally binding obligations*

(a) Acheson quote from Cuban Missile crisis: "The survival of nations is not a matter of international law".

(b) Quote from April 2010 US Nuclear Policy Review: "The United States would only consider the use of nuclear weapons in extreme circumstances to defend the

vital interests of the United States or its allies and partners.” Translation: the US reserves the right to change its mind on NSAs whenever it sees fit to do so:

- (i) What are “extreme circumstances” — undescribed
 - (ii) What are “vital interests of the US” — undescribed
 - (iii) Who determines what they are? Who approves? — unstated
 - (c) I’m not singling out the US. Of all the nuclear powers, it is perhaps the most open, honest and transparent on this point.
 - (d) And if the US is saying this, one can only assume the other nuclear powers have similar policies, stated or unstated. Imprudent to think otherwise.
4. *The conditionality of NSA pledges, far from diluting the political or military utility of nuclear weapons, does just the opposite – they reconfirm the important role of nuclear weapons in the national security, foreign policy and defence strategy of the nuclear weapon States. (Kissinger quote from 1957 book, Nuclear Weapons & Foreign Policy: “Absolute security for any country means absolute insecurity for all the rest”.)*

- IV.** This situation is perhaps the single most important incentive for non-nuclear weapon States to acquire nuclear weapons. That almost no State has succumbed to the temptation so far is a tribute to the continuing effectiveness of and respect for the NPT as well as the existing system of international alliances and defence guarantees, among other reasons.

So: NSAs are declaratory, unequal, unverifiable, have major conditions/ambiguities and loopholes, and have catastrophic consequences in case of non-compliance.

This being the case, and I believe that most disarmament specialists understand these problems, then why are they so important? Why do so many people want NSAs, especially in treaty form?

V. Reasons for legally binding NSAs negotiated by the CD

A. Need to build further respect for the rule of law and the international institutions created to bring order to an anarchic international system

1. *Essential to increase prospects for peaceful resolution of disputes*
2. *Treaties and the international legal standards they establish are a crucial part of this process*
3. *Part of a process for the international delegitimization of nuclear weapons*
4. *Involves the entire international community, not just members of a non-universal treaty regime*

B. Increasing the binding nature of the web of international laws, treaties and institutions is the main hope for non-nuclear powers to maintain and improve their security

1. *The number of such treaties is constantly increasing*
2. *The number of inter-state conflicts is constantly decreasing (many reasons for this, actually)*

3. *The greater legitimization and effectiveness of legal means of restraining State behavior provides confidence to the international community that moral and civilized constraints will work in limiting resort to military force*
4. *Such legal limitations are the main resource for many States to assert restraints over larger powers and thus visibly improve their security*
5. *This web of laws and institutions provides a rallying point for States to pull together to pool influence and power to confront nuclear States and others threatening security*

C. A treaty on NSAs would become an essential part of this web

1. *The legal importance of a treaty and consequent greater observance of its terms by nuclear powers would limit the disadvantages I described*
2. *Nuclear powers would be ever more forced to narrow and possibly eliminate the conditions they currently place on the NSAs they have given*
3. *It would be yet further proof of the validity and effectiveness of the NPT*

D. A treaty on NSAs would help importantly to prepare the ground for a Nuclear Weapons Disarmament Convention

1. *It would involve States that are not NPT members*
2. *Nuclear weapons would be further delegitimized*
3. *The Treaty would cause increased NNWS pressure for nuclear disarmament*
4. *In the end, the only way to be absolutely certain that no State is attacked with nuclear weapons is to be absolutely certain that no State has any*
5. *A nuclear disarmament treaty is the ultimate NSA.*

Annex V

Report to the President of the Conference on Disarmament on work done during the 2010 session on agenda item 5, entitled “New types of weapons of mass destruction and new systems of such weapons; radiological weapons”

Submitted by Mr. Mikhail Khvostov, Ambassador and Permanent Representative of Belarus

1. I have been appointed as coordinator for agenda item 5 “New types of weapons of mass destruction and new systems of such weapons; radiological weapons”. According to schedule the informal meetings took place on 17 June, 24 June, 1 July and 8 July.
2. While preparing to these meetings I tried to build on the excellent work carried out by the previous coordinator, Ambassador Petko Draganov of Bulgaria, as summarized in his report, CD/1877 of 15 December 2009 (annex 5).
3. To facilitate the delegations in preparation to the debates on this item I also prepared and distributed Background information paper on the issues identified as central to this agenda item during the discussions in previous years, including:
 - (a) Prohibition of the new Weapons of Mass Destruction (WMD);
 - (b) Radiological weapons;
 - (c) Nuclear terrorism.
4. For information and reference purposes I also circulated the copy of the document of the Committee on the Conference on Disarmament CCD/511/Rev.1 of 8 August 1977, containing draft agreement on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons. I also prepared excerpt from the occasional paper “Defining Weapons of Mass Destruction”, published in February 2006 by the Research Center for the Study of Weapons of Mass Destruction, Washington DC, containing evolution of the term weapons of mass destruction and highlighting the existing international definitions of this term (available at www.ndu.edu/wmdcenter/docuploaded/op4carus.pdf).
5. The first informal meeting was dedicated to general discussions on the different matters under this agenda item. Briefly, I went over the issues that were raised in the previous years, outlining the main points from the Background information paper. Delegations made use of the opportunity to update and validate their positions and touched upon the following specific issues:
 - (a) Universal International Agreement to Ban the Development and Manufacture of New Types and Systems of WMD;
 - (b) Viewpoints of the delegations on concrete types of new WMD, i.e. phosphor weapon, depleted uranium, disruptive activity in the area of information and communication technologies;
 - (c) Possible legal approaches for prohibition of new types of weapons of mass destruction (framework agreement/additional protocols);
 - (d) Radiological Weapons Ban;
 - (e) So called “dirty bomb” threat and radiological terrorism;

- (f) Effectiveness of existing international instruments;
- (g) Definitions of new types and systems of WMD;
- (h) Need to keep Item 5 under active consideration without prejudice to other agenda items;
- (i) Appointment of a Special Coordinator on Item 5 once the CD has started substantial work.

6. Some delegations emphasized the importance to uphold norms of International Humanitarian Law while developing new weapons and new systems of such weapons. Particular reference was made by one delegation to Additional Protocol I to Geneva Conventions of 1949, obliging the State to evaluate the legality of new types of weapons.

7. Some delegations stressed the importance of radiological weapons issue, which has been for more than 10 years in the past under consideration of the Conference. One delegation suggested that the Conference could upgrade discussions on this issue.

8. Several international initiatives to protect and secure nuclear materials in order to prevent them from falling in the hands of the terrorists were recalled, such as: resolutions of the General Assembly of the United Nations “Measures to prevent terrorists from acquiring Weapons of Mass Destruction” and “Preventing the acquisition by terrorists of radioactive materials and sources”, International Convention for the Suppression of Nuclear Terrorism, IAEA Revised Code of Conduct on the Safety and Security of Radioactive Sources, Amendments to the Convention on Physical Protection of the Nuclear material, Global Initiative to Combat Nuclear Terrorism. Nuclear Security Summit, held on 12-13 April 2010 in Washington was also mentioned in this context

9. As coordinator I put forward proposals to invite experts which could be in position to enrich further discussions on this agenda item. While many delegations had no difficulty in supporting the proposals and some articulated the areas and fora where the experts can be relevant (experts on information security issues, experts from IAEA and 1540 Committee), there were some doubts expressed that experts’ attendance could disregard the other issues under this item and be seen as intrusion to the sphere of the competence of the Governments. I therefore assured the delegations that any participation of experts in further informal meetings under this item would pose no limitations or prejudice on the positions of the delegations on any issue under this agenda item.

10. Some delegations reminded that according to the United Nations General Assembly Resolution 63/36 the Conference on Disarmament should, without prejudice to further overview of its agenda, keep the matter under review, as appropriate, with a view to making, when necessary, recommendations on undertaking specific negotiations on identified types of such weapons. An appeal was made to strengthen the consensus around this issue in the General Assembly of the United Nations. Several delegations suggested that this agenda item was ripe to start negotiations on it. Delegations in principle supported my suggestion that possible legal basis to ban new WMD might look as framework agreement and additional protocols to the agreement on WMD already identified.

11. The delegations agreed in principle that in order to identify new WMD and new types of such weapons that have characteristics comparable in destructive effect to those of WMD already known they should have on their disposal clear definition of WMD. At the second and the third meetings the informal documents mentioned above were distributed for this purpose and the discussion was launched on relevance and sufficiency of the existing definitions.

12. At the fourth meeting I took stock of the debates which took place on 17 and 24 June and 1 July and summarized the progress under this agenda item. I also outlined orally some elements mentioned here above.

13. My overall assessment of the progress on this agenda item, assessing observations and comments expressed by the delegations, is that apart from validation the known position on different aspects of the topic, there were some fresh inflows to the debates. 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. 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 VI

Report of the Coordinator on agenda Item 6: “Comprehensive Programme of Disarmament”

**Submitted by Mr. Desra Percaya, Ambassador
and Deputy Permanent Representative of Indonesia**

Proceedings

1. Based on the organizational framework contained in document no. CD/WP.560 dated 7 June 2010 and Amend. 1 dated 11 June 2010, I have the honour to report back to you, in my personal capacity and as mandated by the President, on the informal meetings on agenda Item 6: Comprehensive Programme of Disarmament. As you are aware, this report has been prepared under my own responsibility.
2. I facilitated four informal meetings on 15 and 24 June, 6 and 15 July 2010, respectively.
3. At the opening of the meeting, I recalled the purpose of holding these informal meetings. Subsequently, I briefly shared with delegations the main points of the previous reports, *inter alia*, CD/1827, CD/1846 and CD/1877. Following this, in subsequent meetings, I presented non-papers on the historical background and summaries of the discussions on the Comprehensive Programme of Disarmament. These non-papers were circulated to all in attendance.
4. This approach was taken to refresh the institutional memory of the participants on the issues and concerns raised in the previous informal meetings held over the past years.

Substantive discussions

5. It was acknowledged that the role and responsibility of the United Nations in the sphere of disarmament must be strengthened, and that this principle should be of a global applicability and relevance.
6. It was emphasized that the primary objective of agenda Item 6 was to formulate a comprehensive “programme” of disarmament with clear objectives, priorities and time frames, and not simply to focus on “comprehensive disarmament”.
7. Delegations were aware of the broad nature of the issues under this agenda item which ranges from nuclear to conventional disarmament, including the prevention of an arms race in outer space. Delegations were presented with a broad spectrum of issues to discuss under this agenda item. It was understood that the discussions on this item this year should be further developed and the objective should be built on the issues previously put forward by the Member States, and to identify new issues, if any.
8. Two approaches were put forward at the informal debate held the previous year: The “holistic or philosophical approach” and the “pragmatic approach coupled with developing of an objective criterion.” Delegations had an in-depth discussion on this aspect. They also had the opportunity for an exchange of views on the following aspects: Objectives, Principles, Definitions, Scope, Obstacles, Follow-up Mechanism, and Time frame. These sub-themes were discussed in broad terms at which delegations tried to describe and define the various issues but stopping short of attempting to undertake a drafting exercise.
9. It was emphasized that in addressing the issue on the Comprehensive Programme of Disarmament, one has to take into account the provisions of the Charter of the United

Nations, and the Final Document of the First Special Session of the UN General Assembly on Disarmament in 1978 (SSOD I), as the first international document adopted by consensus. The Special Session underscored the need to prepare a comprehensive programme of disarmament through agreed procedures. Such a Programme, passing through all the necessary stages, should lead to general and complete disarmament under effective international control.

10. The importance of convening an SSOD IV was mentioned by a number of delegations during the informal meetings. It was considered that the convening of the Fourth Special Session of the UN General Assembly on Disarmament was not only urgent, but also relevant and necessary.

11. The principle of undiminished security was discussed, while relevant in the context of the reduction of the conventional armed forces and conventional armaments, it had implications which should be carefully assessed in the context of WMD, in particular nuclear weapons. It was also noted that the notion of “undiminished security”, as reflected in SSOD I, may have focused merely on the reduction of conventional weapons and not necessarily WMD.

12. The importance of the accession to and implementation of UN-based instruments adopted by consensus, such as the Convention on Certain Conventional Weapons (CCW), the Small Arms and Light Weapons Programme of Action, the proposed Arms Trade Treaty, were highlighted as essential aspects for a Comprehensive Programme of Disarmament.

13. The importance of addressing the root causes of armed conflicts and threat perceptions was raised, which included the necessity to promote balance among States at regional level, and the significance of upholding the principles enshrined in the results of SSOD I. These principles include multilateralism; universality; non-discrimination; justice; preserving security for all; and verification measures, whilst the rights of States to peaceful uses in different areas should not be hampered.

14. Delegations also raised the issue on the relationship between disarmament and development, which was considered as an important focus under this item. It was stated that the rights of States to development should be respected. This is an issue that most delegations are keen on addressing in detail in future deliberations under this item.

15. The Coordinator did not submit any specific recommendations with regard to any possible way forward on this item, and no delegation endeavoured to propose any specific recommendations during the course of the four informal meetings.

Annex VII

Oral report by the Chair/Coordinator on agenda item 7: “Transparency in Armaments”

**Submitted by Mr. Hannu Himanen, Ambassador
and Permanent Representative of Finland**

1. As the Chair/Coordinator on item 7, and on the basis of the mandate contained in document WP.560, this constitutes my oral report to the President of the Conference. I do this in my personal capacity. This report aims at a fair and balanced reflection of the views expressed in the discussion in the course of four informal meetings on agenda item 7. The meetings were held as per the agreed schedule on 18 June, 21 June, 9 July and 12 July 2010.
2. There is a general recognition of the importance and positive potential of transparency, in broad terms and as a general notion. The positive confidence-building potential of transparency in armaments is seen as significant.
3. While no attempt to define transparency in exact terms was made, there seems to be a broadly shared understanding that transparency should not be equalled to disarmament, even though it often has a clear and supporting role in agreed disarmament negotiations as well as bilateral and multilateral arrangements concerning disarmament.
4. Transparency should not be seen as an attempt to diminish the security of States or to restrict or diminish the inherent right of States to self-defence and their right to determine their national security interests, in accordance with the principles and purposes of the Charter of the United Nations.
5. Transparency is not an end in itself, but should always be seen as a means to an end.
6. While it is to be recognized that, since 1991 until now, altogether some 170 countries have contributed information at least once to the United Nations Register of Conventional Arms, there is some concern over the diminished rate of reporting by States. It would be useful to analyse reasons behind this lack of enthusiasm and seek to identify ways of making the register more relevant. The scope of the Register would deserve closer attention in this connection.
7. On a more general note, the scope and definitions of existing transparency arrangements would also need to be looked at. A number of delegations specifically call for extended coverage of the United Nations Register so as to include all types of armaments in the reporting requirements. Specifically, weapons of mass destruction as well as small arms and light weapons were mentioned in the discussion concerning the scope of transparency measures.
8. Representatives of some nuclear-weapon States emphasize the significance of voluntary, unilateral transparency measures taken by them concerning their nuclear arsenals and other weapons of mass destruction.
9. In this connection, some delegations, while recognising the importance of such unilateral transparency measures, underline the need to harmonize or standardize the information given to make it more accessible and useful. While the value of standardisation is not questioned as such, some representatives point out that negotiated reporting standards might lead to lowering common standards and, in effect, less transparency.
10. Regional aspects of transparency are broadly seen as significant. Regional transparency initiatives are to be encouraged. In the context of the regional dimension of transparency, regional transparency arrangements are often tailor-made to correspond to the

needs of the region in question. While the Conference on Disarmament is not seen as a forum for substantive regional negotiations, the Conference could give guidance and direction to regional transparency arrangements.

11. Transparency in armaments is seen to have continued significance for the Conference on Disarmament's substantive agenda, and the Conference should continue to work on this item.
