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## Fissile Material Cut-off Treaty and India: Part I

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### Paper No. 14

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*With the nuclear tests by India and Pakistan in May 1998, the whole non proliferation scenario has changed. In the negotiations leading to the Prep Com for 2000 Review conference, the attempts of nuclear weapon powers will be to keep what they have and deny the same privileges to the two nuclear powers that have gate crashed. The following is a part of a series we propose to discuss FMCT and other related issues.*

After Pokharan II tests, India has formally announced that it will participate in the negotiations for FMCT. These negotiations will be the defining moment from India's point of view as that would determine India being recognised as a nuclear weapon power or not.

The test for FMCT should be whether the treaty would contribute towards the ultimate objective of a non discriminatory, non proliferation regime and universal disarmament or whether it would perpetuate the existing disparity between the nuclear and non nuclear weapon states and among the nuclear states themselves.

Based on the December 1993 United Nations consensus resolution (48/75L) on cutoff, the Geneva Conference on Disarmament voted unanimously on March 23 1995, to form an Ad Hoc committee to negotiate a multilateral, internationally and effectively verifiable ban on the production of fissile material for nuclear weapons or other nuclear explosive devices. The mandate expressed the conviction that the treaty would be a "significant contribution to nuclear non-proliferation in all its aspects". The key words in the mandate are non discriminatory, multilateral (not universal!) and verifiable in that order.

It has taken almost five years since the consensus UNGA resolution in 1993 to seriously discuss and negotiate the Fissile Material Cut-Off Treaty in the second session of the 2000 Review Conference of the Parties to the Treaty on the Non-proliferation of Nuclear weapons in Geneva between 27th April and May 1998. The blame for delay in taking up the treaty is being placed at the doors of the Non-aligned nations who have continued to press for the establishment of an Ad Hoc committee on nuclear disarmament in tandem. The group insisted on negotiations "on a phased programme of nuclear disarmament for the complete elimination of nuclear weapons within a specified framework of time, including a nuclear weapons convention".

*But the fact of the matter is, that the weapon powers are unwilling to link FMCT with other disarmament issues.* India will have to take note of not only the extent to which the cut-off would constrain its weapons programme and its security concerns in relation to other states particularly China but also, how intrusive the verification programmes would be. Given a large number of un-safeguarded reactors in India, the definition of fissile material itself will be relevant to the negotiations.

Having taken a consistent stand towards universal and time bound disarmament, in its present position of having conducted nuclear tests, India's overall approach towards universal disarmament and linkage to time bound disarmament also needs to be reviewed.

Conceptually, the FMCT should be seen as an instrument to prevent further vertical and horizontal proliferation of weapons. If the primary objective is to prevent the five nuclear powers , two declared but unrecognised weapon powers (India and Pakistan) and the lone threshold power (Israel) , then a treaty involving all the eight states to stop producing fissile materials for *weapon purposes* would do. But it is our view that the treaty should be seen in a larger framework of comprehensive non proliferation regime, involving not the production, stockpiling, management and disposal of fissile material alone but also as a disarmament measure to fulfill the objectives of Article VI of the NPT. This can be done only if corresponding steps are taken first to limit and then to eliminate nuclear weapons.

A reading of papers at the Second session of the Prep. Committee for the 2000 Review Conference at Geneva, gives the impression that the weapon powers and their surrogates are keen to rein in those outside the nuclear club while paying lip service to the core issue of nuclear disarmament.

India is now in a peculiar situation where by virtue of its tests, is a nuclear power but not recognised by the weapon powers. It is like someone who has passed the graduate degree examination, but told by the University that his degree will not be recognised! The non weapon powers will not be equally at ease to accept it as a non nuclear power anymore. To put it bluntly, the objective should be for India to get itself accepted if not declared as a weapon power and get what the weapon powers propose to retain for themselves in the negotiations leading to FMCT. It will be hypocritical to continue to stress on the discriminatory nature of the treaty once India has entered the nuclear club recognised or unrecognised.

The fissile materials used both in nuclear weapons and nuclear power reactors are the same-- Uranium and Plutonium. But the useful isotope of Uranium is Uranium 235 which has to be in a concentration of 90 percent and above for a weapon. Unlike Uranium, Plutonium of any composition of isotopes can be used for a nuclear weapon. In a sense, Plutonium in the nuclear reactor as a fuel, is itself a potentially usable weapon grade material. Some experts believe that reactor grade Plutonium produced for commercial reactors could be fashioned into a nuclear weapon. Therefore, to carry this logic further, any non proliferation regime that does not take into account the presence of Plutonium in civilian reactors is neither complete nor comprehensive.

India being a non signatory to the NPT, most of its reactors using Plutonium are not under safe guards. The FMCT cannot become a backdoor entry to place restrictions on the civilian reactors.

A Rand Corporation study defines weapon-usable fissile materials as Uranium with a fissile isotopic content of 20 percent or more and Plutonium of any isotopic composition. Problems would arise with the latter, as the fuel contained in a plutonium reactor cannot be considered as fissile material so long as it is the reactor itself. Only the facilities reprocessing Plutonium outside the civilian reactor could be brought under the meaning of fissile material for the purposes of the treaty. So will be the case with enrichment facilities for Uranium.

There is a view, that since all the weapon states have stopped producing weapon grade fissile material now, as a first step, a treaty legally binding the states producing the fissile materials would be a practical attainable measure. To negotiate a comprehensive treaty, many contentious issues like the disposal of the surplus fissile material removed from the weapons, safety and safeguards for such material and also of the stocks already left with the weapon powers will have to be discussed and consensus arrived at. This is no easy task and may take many years, if one is to judge from the five years it has taken just to form the committee from the UNGA resolution of 1993.

The weapon states have not stopped production of fissile materials as a genuine disarmament measure. All these states are awash with fissile materials and they have no need for further production. Further in the case of USA and Russia, weapon grade material removed from the weapons are still available for reloading if necessary. Therefore, "fissile material cut-off " is of no relevance to them.

Except for USA, no other country has come out clearly with the details of production of fissile materials or their disposal. In the case of China, an unrelated remark by a senior scientist affiliated with the nuclear weapons programme to some present at the International School on Disarmament and Research on Conflict way back in April 1994 that China has stopped producing fissile material for nuclear weapons is being taken as a definitive policy of China. What is needed is a legal binding and a transparency in the production and disposal of fissile material.

Perhaps, the most contentious and complex issue for both India and Pakistan would be of the available fissile material with them. If the treaty is to implicitly acknowledge the right of the five nuclear weapon states to do as they wished with the fissile material already produced,

what happens to the fissile materials already produced by India and Pakistan and even Israel? There would be many objections by the weapon states to extend this privilege to the three states. The objections could be

\* It would in effect, ratify by international treaty the right to make nuclear weapons out of their un-safeguarded material. India being a non signatory to NPT, the term "un-safeguarded" has no relevance to the Indian fissile material production.

\* Since India and Pakistan acquired nuclear weapons since the date set by the NPT (1 January 1967), they may feel less restricted than the recognised Nuclear weapon states to the NPT's commitment to reverse the nuclear arms race. We have seen that except for USA and Russia in making considerable progress in START I and START II treaties, none of the other three weapon powers have made any progress to take "effective measures towards nuclear disarmament" as laid down in Article VI of the NPT. In the case of India, no dialogue on disarmament is complete unless China is also involved.

\* Hard liners in Argentina, Brazil and South Africa might regret that their governments had accepted NPT or NPT- type constraints. (Paper by David Fischer, in the Asia Pacific Regional seminar on the nuclear non proliferation treaty , Canberra 28-29 March 1994). This does not take into account the peculiar security concerns of India with not so benign nuclear powers as neighbours ( See paper on Indo-US relations after Pokharan II by B. Raman in this site). It is not the case with countries like Canada and Australia who have no such security concerns but still, more vociferous that the weapon powers themselves in condemning the Indian tests.

In a major policy speech at the Brookings Institute on November 12th 1998, the Deputy Secretary of State Strobe Tallbott declared that the US would not concede even by implication, nuclear-weapons states status on either country. Retention of fissile material stocks up to the signing of the treaty on fissile material would be an indirect admission into the nuclear weapons club. Therefore, in the FMCT, India has to ensure the right to retain the fissile materials already produced. This is the bottom line. Anything else may not be acceptable to the people and that too after staying outside the NPT all these years and after undergoing hardships by way of technology denials, sanctions and the security threats posed by other countries in its neighbourhood.

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