

FMCT: The Tussle Continues...

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Introduction

Nuclear weapons have emerged as a major threat to mankind today. The new dimensions and dynamics of the nature of the conflict have made them even more potent. The emergence of conflict between state and non-state actors and defiant states... defiant to existing International Order and scheme of things see nuclear weapons as their only viable defense against the asymmetries of power that exist in the world today. They are seen as game changers. This particular dimension and their potential of destruction compel the responsible of the world to come up with safeguard mechanisms. Fissile Material Cutoff Treaty (FMCT) is an attempt in that direction. It is suppose to strengthen Nuclear Non-Proliferation norms by adding a binding international commitment to existing constraints on Nuclear weapons useable fissile material. The terms of the treaty remain undefined and concerns of many states remain unaddressed. FMCT is back on US radar because of President Obama's personal legacy that earned him the Nobel peace prize in 2009. The focus on disarmament was renewed because he ceased the funding for America's "reliable, replacement" warheads and signing the New START treaty with Russia, which reduced the nations' nuclear arsenals to the lowest levels in five decadesⁱ. Finalising the FMCT is important to President Obama especially during times when nothing else is working.

What is FMCT?

The Fissile Material Cutoff Treaty (FMCT) is a proposed international treaty to prohibit the further production of fissile material for nuclear weapons or other explosive devices. The treaty has not been negotiated and its terms remain to be defined. According to a proposal by the United States, fissile material includes high-enriched uranium and plutonium (except plutonium that is over 80% Pu-238). According to a proposal by Russia, fissile material would be limited to weapons-grade uranium (with more than 90% U-235) and plutonium (with more than 90% Pu-239). Neither proposal would prohibit the production of fissile material for non-weapons purposes, including use in civil or naval nuclear reactors.ⁱⁱ

In a 27 September 1993 speech before the UN, President Clinton called for a multilateral convention banning the production of fissile materials for nuclear explosives or outside international safeguards. In December 1993 the UN General Assembly adopted resolution 48/75L calling for the negotiation of a "non-discriminatory, multilateral and international effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices." The Geneva based Conference on Disarmament (CD) on 23 March 1995 agreed to a establish a committee to negotiate "a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices."ⁱⁱⁱ However, substantive negotiations have not taken place.

In 2004, the United States announced that it opposed the inclusion of a verification mechanism in the treaty on the grounds that the treaty could not be effectively verified. On November 4, 2004. the United States cast the sole vote in the First Committee of the United Nations General Assembly against a resolution (A/C.1/59/L.34) calling for negotiation of an effectively verifiable treaty. The Bush Administration supported a treaty but advocated an ad hoc system of verification wherein states would monitor the compliance of other states through their own national intelligence mechanisms.^{iv}

On April 5, 2009, U.S. President Barack Obama reversed the U.S. position on verification and proposed to negotiate "a new treaty that verifiably ends the production of fissile materials intended for use in state nuclear weapons." On May 29, 2009, the CD agreed to establish an FMCT negotiating committee.^v

Why Pakistan is against FMCT?

Pakistan is against FMCT, largely because it perceives FMCT prejudicial to its national security interest. States that exist in regional blocs where the security paradigms of the cold war still persist cannot be expected to engage in disarmament, arms control or non-proliferation regimes that undermine the security interest of these states. Moreover the attitude of the major powers towards nuclear proliferation is based on the narrow view of “*my security versus your insecurity*”. The major so called responsible powers of the world were ready to conclude Comprehensive Test Ban Treaty (CTBT) only after sufficient number of nuclear test had already been carried out by them and future testing was unnecessary. The same is the case with FMCT. Now that they have developed huge stockpiles of the nuclear weapons as well as the stocks of fissile material, especially HEU and weapon grade Plutonium that can be quickly converted into nuclear warheads. These major powers are ready to conclude a treaty that will only ban future production of fissile material. This approach is “Cost Free” for them as this will not undermine or compromise their security. Therefore the proposed FMCT, in its present form and structure is not an effective non-proliferation measure because the entire focus is on the ban on the future production and there is no reference to reduction of existing stocks. Another lacuna perhaps is the non inclusion of fissile materials that have nuclear weapon potential. It is because of this that Pakistan has always insisted on the inclusion of reactor grade plutonium under the scope of the FMCT.

The new developments of civil nuclear deals between states outside the NPT regime further dilute it. The threats of political and economic isolation, propaganda campaigns and unjust pressures created by the powerful of the world will only complicate the exiting challenges. A productive approach that addresses genuine security concerns may produce the desire results.

Pakistan for good reason has repeatedly blocked the CD from implementing its agreed program of work, despite severe pressure from the major nuclear powers to end its defiance of 64 other countries in blocking international ban on the production of new nuclear bomb-making material, as well as discussions on full nuclear disarmament, the arms race in outer space, and security assurances for non-nuclear states.^{vi}

There are 65 members of CD including Pakistan and every member has a right to veto power. All countries have the right to halt the negotiations if the national interests of any member country are targeted. Without consent of any country the negotiation cannot move to the next stage. Presently, the negotiation of a ban on fissile material is continuing on the CD forum. Fissile material can be defined with respect two types of school of thoughts regarding banning on fissile material. The first one gives the idea of FMCT which means the ban on further and future production of nuclear material but does not talk about existing stockpile. All P-5 and other major countries including India are supporters of this thought. The second school of thought led by Pakistan and also silence support from G-21 countries talks about Fissile Material Treaty (FMT), which means ban on further and future production as well as to dismantle the existing stockpiles. Pakistan’s concept of FMT is more relevant to American President Obama’s mission “Nuclear Zero”. But there is no supporter of FMT except from G-21; all major countries have adopted dual and duplicitous policies.^{vii} Pakistan along with the G-21 countries has built its argument on the fact that FMCT should be a clear disarmament measure and just a non proliferation measure so may be the treaty should go beyond just mandating a cut-off fissile material production and undertake the eradication of existing stockpiles. The existence of unequal stockpiles of Fissile material at the global, regional and sub regional levels will result in continued vertical proliferation.

The general understanding that Pakistan is the only country that has blocked the CD (conference on disarmament) to start negotiations on FMCT on January 19, 2010 is misleading to begin with for instance the number of states including Egypt and Indonesia, Iran, North Korea, Sri Lanka and Syria, had supported for a more just program of work china had also not endorsed the CD plan of work. Zia Mian and AH Nayyer have pointed out some states may simply remain in side silent about their opposition treaty and taking advantage of Pakistan’s refusal to permit talks on FMCT.^{viii}

Stance of Major Powers and Reasons for it

In mid-2008, the global stockpile of HEU was approximately 1670 tons. According to the IAEA, 25 kg of HEU is necessary to make a first-generation implosion bomb of the Nagasaki-type.^{ix} Approximately 99 percent of the global stockpile of HEU is located in the Nuclear Weapon States: the United States, Russia, the United Kingdom, France, and China. The global stockpile of separated plutonium is about 500 tons.

About half of this stockpile is used for civilian purposes and continues to grow.^x According to the IAEA, 8 kg of plutonium is necessary to make a first-generation implosion bomb of the Nagasaki-type. The United States estimates that as little as 4 kg of plutonium would be enough to make a weapon.^{xi} India and Pakistan (and possibly Israel and North Korea) are the only states that continue to produce fissile material for nuclear weapons. The United States, United Kingdom, Russia, and France have officially declared an end to their production for weapons. China has unofficially halted its production.

In general, the Nuclear Weapon States prefer a treaty that bans only the production of new fissile material for weapons purposes and would not address pre-existing civilian fissile materials and weapons materials that have been declared excess for military use. China, India, and Pakistan are not sure if they have enough fissile material to meet future defense needs and may want to produce more. Doubts remain in Russia, the United States, and other countries about the intrusiveness and cost of verification.^{xii}

Non-Nuclear Weapon States generally view a FMCT as a step toward the elimination of nuclear weapons. They therefore desire a treaty that would prevent civilian stocks and stocks declared in excess for military use from being diverted for use in weapons.^{xiii}

Stakeholders' Perspective

- **Israel** strongly opposes a FMCT because it does not believe that a FMCT would be an adequate safeguard against Iranian development of nuclear weapons.^{xiv} the goals of a nuclear-weapon-free world and a nuclear weapons free Middle East would require a “sea change” in nuclear policy both in Israel and in its “partner in opacity,” the United States. Opacity is viewed as a great success by Israel. The Arab states have not only learned to live with it, they seemingly can’t live without it. However, the recent differences in nuclear policy between the United States and Israel with regard to Israel’s approach to the Nuclear Suppliers Group and its strong support of the CTBT suggest that Israel should reexamine whether opacity is a wasting asset in that it makes it difficult if not impossible to implement arms control measures that may be necessary to thwart the Iranian threat. (*Avner Cohen and Marvin Miller*)
- **China** has traditionally linked its support for a FMCT to the United States and other parties’ cooperation on a treaty for the prevention of an arms race in outer space (PAROS). China also worries that given the small size of its nuclear arsenal relative to the United States and Russia, a FMCT could limit its capacity to increase the size of its nuclear forces.^{xv} China worries that an FMCT would rule out China’s option to respond to unfavorable strategic developments by simply increasing the size of its nuclear force. It also worries about abuse of on-site inspections under an FMCT. (*Li Bin*)
- **France** has called for all nuclear weapon states to support the negotiation of a fissile material cutoff treaty, to establish an immediate moratorium on the production of fissile materials for weapons, and seeks transparency measures agreed between the five Nuclear Nonproliferation Treaty (NPT) nuclear weapon states. France is opposed to creating an FMCT negotiating process outside the United Nations Conference on Disarmament. France affirmed the importance of the structure of negotiation for an FMCT by abstaining from an October 2007 Japanese resolution at the First Committee of the United Nations General Assembly that did not specifically mention the CD as the negotiating body for a cutoff. (*Jean-Marie Collin*)
- **Germany’s** interest in FMCT negotiations is strong. It believes that nuclear arms control, nuclear disarmament, and the nonproliferation regime need to be strengthened. The goals of nuclear arms control—although hardly contested—are therefore in danger being given a lower priority than other unrelated foreign policy goals, especially when other countries oppose German arms control positions. Other foreign policy goals, such as the economy, EU decision-making, good relations with other countries, have a much higher ranking in Germany’s list of priorities. German diplomats who negotiate on arms control therefore sometimes do not have much leverage in promoting their positions in comparison to diplomats from countries in which these issues rank high. This is the case especially with regard to the nuclear weapon states that have less progressive positions. (*Annette Schaper*)
- **Russia** officially supports a verifiable ban on the production of fissile material for weapons purposes to which every state with enrichment programs and the capability to produce a nuclear weapon is a signatory. This includes India, Israel, North Korea, and Pakistan, all of whom have strong reservations about the treaty.^{xvi}

- **North Korea** signed on to the CD agenda to discuss a FMCT; it announced a step-up in plutonium production and threatened to enrich uranium amid international criticism for its missile tests in May 2009.^{xvii} This overt demonstration of nuclear capability has created serious pressures for countries like Japan and South Korea, who possess the technological wherewithal to follow suit.^{xviii}
- **Japan** would like Israel to join the NPT as a non-weapon state. For India and Pakistan, the situation might be different, as they officially claim that they have nuclear weapons. Japan has introduced official sanctions targeted on those states. If they join FMCT, it is essential that both countries also ratify the Additional Protocol, which would make it easier for the IAEA to find undeclared facilities. (*Tatsujiro Suzuki*)
- **United Kingdom** government regards a “Fissile Material Cut-Off Treaty,” or FMCT, as a “key milestone towards building this climate for disarmament.” He declared that it “will limit the ability of signatory states to expand their nuclear arsenals and ... provide the necessary reassurance to their neighbours and the international community.” Browne also reaffirmed the UK’s 1995 moratorium on the production of fissile materials for weapons and subsequent placement of “excess” military fissile material under international safeguards. He did not, however, make any new offers to put more military plutonium or highly enriched uranium (HEU) under safeguards. The UK does not want to go beyond a cutoff of production for future explosive military use; it considers that such a cutoff would achieve its core objective and reduce the time needed for negotiation. The UK would oppose the inclusion of stocks anywhere in the final treaty, but is willing to consider voluntary arrangements by nuclear weapon states to put more ‘excess’ materials under safeguards. (*Rebecca Johnson*)
- **The United States** Both President Barack Obama and former Republican presidential nominee Senator John McCain campaigned in support of a FMCT. In a speech in Prague in April 2009, President Obama announced the need for a treaty that “verifiably ends the production of fissile materials intended for use in state nuclear weapons.”^{xix} Obama’s commitment inspires confidence that the FMCT will be given the consideration it deserves as an important step toward eliminating the threat of nuclear weapons to global peace and security. On May 29, 2009, Obama restated his commitment to the passage of a verifiable FMCT and commended the Conference on Disarmament on its resumption of FMCT talks. For the first time since 1996, the 65-nation Conference on Disarmament unanimously agreed on a 2009 agenda to resume arms control talks. The Conference agreed to set up a working group to carry out full negotiations on “an international ban on the production of new nuclear bombing making material.”^{xx} Though the consensus is a sign of progress, many parties are likely to maintain their reservations about a FMCT. Within the United States, bipartisan support exists for a verifiable FMCT. Both the bipartisan Congressional Commission on the Strategic Posture of the United States and the Council on Foreign Relations Task Force on U.S. Nuclear Weapons Policy endorsed a verifiable treaty that ends the production of fissile material for weapons purposes. In a June 3, 2009 Senate floor statement, Senator McCain again endorsed a FMCT.^{xxi} However, strong Republican opposition to Obama’s nuclear weapons agenda persists, with Senators John Kyl (R-AZ) and Jeff Sessions (R-AL) leading the charge against the Comprehensive Test Ban Treaty (CTBT). It remains to be seen if enough Republicans will support a verifiable FMCT to ensure ratification.
- **India** New Delhi has softened its stance on the FMCT during the recent years as part of the Indo-U.S. nuclear deal announced in July 2005. It pledged to support fissile material cut-off treaty negotiations at CD. Numerous analysts, however, believe that in real terms, if India is asked to sign the FMCT today, it would not be ready to do so. Ambassador Hamid Rao of India warned that “[w]e will not accept obligations not in keeping with or prejudicial to our national security interests or which hinder our strategic programme, our R&D as well as three-stage nuclear programme. That underscores that New Delhi would not consider any constraints on its fissile-material production. C. Rajaraman has pointed out:—India’s implicit view appears to be that it is a recent entrant to the group of nuclear powers, that its nuclear forces are still at the growing stage and that it needs more time before it can consider any constraints on its fissile-material production. It is unlikely that India will accept any restriction on its production till such time as it feels that it has an adequate nuclear arsenal to deter all foreseeable nuclear threats to its security.”^{xxii}

New Delhi's non-confrontationist approach in CD on FMCT germinates an impression that it would not block the FMCT. The nuclear history of India reveals that India has always adopted diplomatic-multifaceted stances during the preliminary negotiations of the treaties. Once the negotiations entered into the final stage, India would change its strategy from a non-confrontationist position to a bargaining tactic and finally abstain from the process or oppose it. For instance, it had played a similar role during the NPT negotiations in the mid-1960s and again in case of the Comprehensive Test Ban Treaty during the early 1990s. Hence, the FMCT stakeholders need to be vigilant and anticipatory about the Indians position on FMCT.

- **Iran** Serious concerns and doubts are present about Tehran's Nuclear designs. The general understanding is that Iran will continue to invest and develop its uranium enrichment capabilities. It has been able to sustain international pressure so far. A recent development is that On March 1, 2009 the Pentagon announced it was sending the US Monterey – a vessel equipped with the sophisticated Aegis radar system, capable of protecting Europe from a potential Iranian nuclear missile strike – to the Mediterranean. The guided missile cruiser is the first part of a missile shield announced by the Obama administration in 2009. Its deployment comes one week after the Vienna-based International Atomic Energy Agency (IAEA) released a notably outspoken report on Iran's nuclear activities and lack of cooperation with inspectors operating under the UN Security Council's mandate. Issued on February 25, the report appears to agree, at least in part, with the conclusions of a new US National Intelligence Estimate (NIE) on Iran, about which members of Congress and their staff were briefed a week earlier. Together, the reports paint a picture of Iran persisting in its controversial nuclear activities despite international concern, although the US report suggests that sanctions and sabotage have slowed the program.^{xxiii} Iran's nuclear program will definitely impact developments on the nuclear fronts in the Middle East. The December 2006, decision by the six members Gulf Cooperation Council (GCC) is a case in point.^{xxiv}
- **Saudi Arabia** Prince Turki al-Faisal, a former Saudi intelligence chief, a senior Saudi Arabian diplomat and member of the ruling royal family has raised the spectre of nuclear conflict in the Middle East if Iran comes close to developing a nuclear weapon. He warned senior Nato military officials that the existence of such a device "would compel Saudi Arabia to pursue policies which could lead to untold and possibly dramatic consequences".^{xxv} Iran's ambitious and ambiguous nuclear drive has shown states in the Middle East, including Saudi Arabia, that having nuclear energy facilities—particularly fuel cycle facilities—gives a country a sense of prowess and strength. Setting up their own nuclear programs give states long-term hedging options, particularly in light of concerns that U.S. security guarantees to its allies will become weaker. Some Saudi diplomats complain that, since 2003, the United States has permitted Iran to gain in influence in the region at the expense of Saudi Arabia and other states with Sunni majorities. If Iran obtains nuclear weapons, some regional analysts and Western government officials assert that Saudi Arabia will react by entering into a nuclear defense pact with Pakistan, which tested nuclear weapons in 1998 and is now expanding its atomic arsenal. U.S. and European officials say privately that they are concerned about how Saudi Arabia would respond to a nuclear-armed Iran, given a lack of transparency in Saudi government decision making and the country's precarious security situation.^{xxvi}

Issues of Horizontal Proliferation can never be addressed unless Vertical Proliferation past and present are addressed

The concept of non-proliferation, as enshrined in the NPT, encompasses both horizontal and vertical proliferation, yet that very concept is under threat from the drive by the US and UK towards a policy of counter-proliferation, rather than non-proliferation. Described by Fiona Simpson as "a paradigm shift," counter-proliferation concentrates entirely on the prevention of horizontal proliferation and, as such, counter-proliferation policies clearly undermine the NPT framework. They also further undermine the multilateral non-proliferation regime through its possible substitution – as in the case of Iraq – by pre-emptive disarmament wars, carried out by a tiny minority of the international community. Missile defence is clearly part of the counter-proliferation approach, for it enables first strike without fear of retaliation. In order for a non-proliferation regime to be successful in the long term, the same standards must be applied to all states. This means that nuclear weapons states must engage with determination in fulfilling their long-overdue obligations to achieve nuclear disarmament.

In today's world, the only way to halt nuclear proliferation is to eliminate existing double standards and implement a more equitable universal regime that includes a strict timetable for nuclear disarmament, the criminalization of both horizontal and vertical proliferation, effective international enforcement mechanisms and adequate funding to achieve these goals. ^{xxvii}

Conclusion

The major issues that need to be addressed are of transparency and mutual confidence. Treaties may be drawn and signed but until and unless disarmament can be unequivocally verified, the value of nuclear deterrence remains high because it appears that it is the only negotiating tool that works for the weak. This however also heightens the threat perception of the powerful. The tussle continues.....

Endnotes

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ⁱⁱⁱ Shannon Report, CD/1299, March 24, 1995.

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^{vii} <http://www.eurasiareview.com/fmct-and-indo-pak-deterrence-stability-analysis-21042011/> (last accessed on 12 July 2011).

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^{ix} International Panel on Fissile Materials (IPFM), Global Fissile Material Report 2008: Scope and Verification of a Fissile Material (Cutoff) Treaty (October 2008), p. 2.

^x IPFM, op. cit., p. 7. See also Frank Von Hippel and Alexander Glaser, “The Global Cleanout: Reducing the Threat of HEU-Fueled Nuclear Terrorism,” *Arms Control Today* (January/February 2006).

^{xi} IPFM, op. cit., p. 105.

^{xii} IPFM, Banning the Production of Fissile Materials for Nuclear Weapons: Country Perspectives on the Challenges to a Fissile Material (Cutoff) Treaty (October 2008), p. 3.

^{xiii} *Ibid.*, p. 4.

^{xiv} *Ibid.*, p. 32.

^{xv} *Ibid.*, p. 13.

^{xvi} *Ibid.*, pp. 42-44.

^{xvii} Peter Capella, “UN Disarmament Forum Unlocks Global Nuclear Talks,” *AFP* (May 29, 2009); “Making a Start,” *The Economist* (June 4, 2009).

^{xviii} Naeem Salik, ‘the Genesis of South Asian Nuclear Deterrence – Pakistan’s Perspective’ Oxford Karachi 2009 page no. 155

^{xix} Barack Obama, Remarks at Hradcany Square in Prague, Czech Republic, (April 5, 2009).

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^{xxiv} Simon Tisdall, ‘Gulf States intention is warning to Bush’, *Dawn Karachi* December 13, 2006.

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^{xxvi} <http://carnegieendowment.org/2010/07/20/saudi-arabia-s-nuclear-ambitions/58v> (Last Accessed on September 12, 2011)

^{xxvii} (http://www.cnduk.org/index2.php?option=com_content&do_pdf=1&id=389)