FMCT Informal Consultative Meeting, 2-3 March 2017
Opening Statement by Ambassador Piet de Klerk
Ministry of Foreign Affairs of the Netherlands

Excellencies, ladies and gentlemen,

We are gathered here to hear a broad range of views on how to arrive at a fissile material cut-off treaty. Speaking as the Netherlands' representative here who is also the governmental expert in the High-Level Preparatory Group, I am looking forward to exchanging views and hearing interventions over the next two days, because [as Heidi explained] all different arguments will be carefully considered when the Group commences its deliberations.

A treaty banning the production of fissile material for use in nuclear weapons or other explosive devices is something we, the international community, has long been striving toward. But progress, before or after 1993, when the General Assembly called for an FMCT, has been hard to come by.

The Netherlands attaches great importance to a fissile material cut-off treaty (I will come back to the words cut-off later) because it would put another lid on the nuclear arms race, or should I say arms races plural, as they are going on in different parts of the globe. An FMCT would seek to effectively and verifiably halt fissile material production for nuclear weapons purposes by states parties. A fissile material cut-off treaty is not nuclear disarmament per se. The Netherlands is in favour of measures in that realm too, but an FMCT would not diminish per se the number of nuclear weapons in the arsenals of the states possessing nuclear weapons, but it can facilitate such decreases. In any case, if all these states – and others as well – would become party to an FMCT, all states would be confronted with a limited supply of fissile material for weapons purposes. Hence an FMCT would put a cap on nuclear arsenals, and that cap might become lower depending on additional agreements and/or offers. Therefore, an FMCT is a useful, if not crucial step in the direction of nuclear disarmament, and also a significant step in the area of non-proliferation. It may also have farther reaching effects, such as in the area of nuclear security.

As many of you know, it has been discussed for years to what extent a future FMCT should be only a cut-off treaty – discontinuing the production of fissile material for weapons purposes – or whether it should also deal with what has been produced already: existing stocks. In 1995 that lead to the formulation found in the Shannon Mandate – the famous CD/1299 – by which this would be a matter that might be brought up during the negotiations. An agree to disagree formula.

It is our conviction that that matter is not the biggest stumbling block in the negotiations. It is not a black and white issue. The first question to ask is: what stocks are we talking about? Stocks being quantities of fissile material produced for a certain purpose. Where is that material now? In nuclear weapons? Active, or retired? Used for naval propulsion? For peaceful non-military purposes? The answer to these questions makes a difference. In any case, an FMCT would not prohibit the production of fissile material for civilian or non-proscribed military purposes. For the categories that <u>are</u> subject to the treaty, the second question to ask is what information would states possessing such material that could be used for weapons purposes have to provide about current stocks. This would be important in order to demonstrate that, if inspectors should find fissile material that can be used for weapons purposes, it was produced before the entry into force of the treaty. Whether one would want to use an FMCT to actually decrease the existing stocks is another matter altogether. The best here is probably the enemy of the good, but an FMCT might have a facilitating role in this regard.

The challenges for drafting an FMCT arise right from the start, as it is not yet defined what *fissile material* actually is. At least the common perspective is that high-enriched uranium and separated plutonium will be at the center of any definition. It is interesting to note that when the first proposals

came to the table in the mid-fifties (proposed by the US), they were not formulated in terms of fissile material, but as "fissionable" material. The latter term is better defined than the first. The IAEA defines it as an isotope or a mixture of isotopes capable of nuclear fission. That is a different concept, *fissile* being a subset of *fissionable*. About fissile isotopes, the IAEA Safeguards Manual says that "isotopes that undergo fission by neutrons of all energies, including slow (thermal) neutrons, are *usually* reffered to as fissile materials or fissile isotopes." And it explains that the isotopes U-233, U-235, Pu-239 and Pu-241 are referred to as both fissionable and fissile, while U-238 and Pu-240 are fissionable but not fissile. That "usually" is already an indication that there is no full agreement. Moreover, it is easier to define what a fissile *isotope* is, than what precisely fissile material is. It is fair to say that many define fissile material as "unirradiated direct use material," that is to say, quoting the IAEA Safeguards Manual again, "nuclear material that can be used for the manufacture of nuclear explosive devices without transmutation or further enrichment." To me that combination of definitions seems a solid basis, but no agreement has yet been reached. And that is a rather fundamental point.

A second major issue is what *production facilities*, or rather *no-production facilities*, are, that is to say facilities where production *for nuclear weapons purposes* is not allowed after entry into force of the treaty. This issue is clearly related to the definition of fissile material. What is fissile material and when is it produced for weapons purposes? And perhaps I should mention a related aspect in this regard: if *production* of fissile material for weapons purposes is prohibited under the treaty, does one need flanking measures to ensure that a party doesn't acquire fissile material for weapons purposes in any other way, say by importing it? So much about not producing or otherwise acquiring fissile material for weapons purposes. The other side of the coin is the production for non-proscribed purposes. That remains allowed and therefore verification measures apply to that material; on that point there is full agreement. But the question then arises, how long do you need to follow that material in order to ensure that it is indeed no used for weapons purposes? That might be easy for fissile material for peaceful purposes, say fuel for a research reactor. You are then in the realm of safeguards. It is more complicated when the fissile material is produced to make fuel for naval propulsion. Every NPT state is formally allowed to make naval propulsion fuel, but no NNWS has ever done that – some *plans* in the course of time to the contrary aside. So in practice, procedures for verification with regard to naval fuel, and the discontinuation of access at some point, have never been worked out.

Which leads us to a third issue: the verification regime. Under an FMCT it will have to be verified that no prohibited activities are taking place in declared facilities, that no undeclared material is being produce and that no undeclared production facilities exist. Over the decades the IAEA has built up a wealth of experience about how to track nuclear material – for peaceful purposes of course, with the aim of preventing it being used for explosive purposes. That experience is a given, it is relevant, but not necessarily decisive. Verification arrangements that have been agreed in one context cannot be considered agreed in another. Moreover, the environment in which FMCT verification needs to take place might come – and probably will come – with extra restrictions compared to NPT safeguards. Restrictions that might flow from the fact that installations are located on a military site for example. Some verification techniques like environmental sampling might not work in an NWS environment. Despite these important differences, one evident option would be to give the IAEA the task to verify the provisions of a future FMCT. The organization, around 1970, was able to add the verification responsibilities under the NPT to its mandate, and there is no reason why something similar cannot be worked out in this case, even though that cannot be a matter of copy-paste, of course.

As you can appreciate, all these issues – definition, scope and verification – are interrelated. One of the tasks for the High-Level Expert Preparatory Group will be to come to conclusions about *how* they relate, because that is of crucial importance for the outline of a future treaty.

Thank you.