Canadian views on the report of the group of governmental experts to make recommendations on possible aspects that could contribute to but not negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices

Further to the request of the Office of Disarmament Affairs of February 25, 2016 and pursuant to UN General Assembly Resolution 70/39 (A/RES/70/39) entitled "Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices", please find below the views of the Government of Canada (Canada) on the report of the group of governmental experts (GGE) created pursuant to UN General Assembly Resolution 67/53 (A/RES/67/53) to make recommendations on possible aspects that could contribute to but not negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices (referred to as an FMCT in this document for the purposes of simplicity).

Introduction

The GGE was established to create a space where serious, substantive discussion on all possible elements of a treaty could occur, notably in the absence of negotiations having thus far commenced at the Conference on Disarmament, and despite this being the overwhelming will of UN member states for more than 20 years. The GGE succeeded in its task, conducting a robust, fact-based assessment, where no issue was off the table. The commitment to genuine dialogue apparent among its diverse membership, including six states that possess nuclear weapons, is a model for other multilateral nuclear non-proliferation and disarmament forums.

The continued significance of this treaty, one that remains a logical complement to the Comprehensive Nuclear-Test-Ban Treaty, was amply demonstrated by the GGE’s work. Canada hopes that the renewed interest and momentum generated by the work of the GGE will translate into action and the commencement of treaty negotiations without delay. It was a privilege for Canada to have chaired this group and we are pleased that it successfully adopted a robust consensus report on aspects of a future treaty, representing the most in-depth discussions held on the topic to date. Although important differences in perspective remain, Canada believes experts left the GGE experience with a deeper appreciation of others’ opinions on a future FMCT and with the realization that positions are not as divergent as originally thought.

Treaty Objectives

Canada is persuaded that there is great value in pursuing a treaty that would ban the production of fissile material for nuclear weapons or nuclear explosive devices. Restricting the availability of fissile material will help limit both horizontal and vertical proliferation and will enhance global nuclear security by lowering the risk that such fissile material could be acquired by terrorist groups.

The GGE also demonstrated that an FMCT has the potential to advance both non-proliferation and disarmament aims, and that there exists a variety of ways such objectives can be achieved through its provisions. Canada also sees great potential for the treaty to play a role in increasing
transparency and confidence between states, which is essential groundwork in the pursuit of further nuclear disarmament measures.

**Scope**

The fact-based, policy-neutral approach taken by the GGE fostered a constructive discussion on the contentious issue of scope, including a useful dialogue between states that possess nuclear weapons and those that do not. There was agreement among experts that the scope of a future FMCT should set out the basic obligations states parties would be required to fulfill, which should be formulated in terms of prohibited, as opposed to permitted, activities. The GGE also made significant headway in factually and neutrally unpacking whether, or to what extent, the scope of a future treaty should extend to fissile material produced by a state party prior to entry into force, and assessing the implications of doing so.

GGE views fell along a spectrum, from addressing future production, to preventing an increase in the amount of fissile material assigned for use in nuclear weapons, to addressing some or many aspects of past production of fissile material as it would be defined in a treaty. To assist deliberations, the GGE examined various functional categories of fissile material and the verification implications for each, including national security, commercial proprietary considerations and resource requirements for verification. Elements of past production examined by the group included civilian stocks, naval fuel, stocks assigned to nuclear weapons and fissile material declared by a state as excess to its weapons’ needs.

By demonstrating that there are a variety of ways in which the past production of fissile material could be addressed, including through measures complementary to an FMCT, the GGE has brought considerable nuance to this longstanding debate. This is a significant accomplishment, since the discussions hitherto have tended to mischaracterize the range of perspectives on this matter. In this context, Canada considers that any debate on an FMCT should no longer be considered through the lens of a ‘stocks vs. no stocks’ dichotomy.

**Definitions**

The GGE agreed that treaty definitions should be practical, scientifically and technically accurate, and tailored to the specific objectives of the treaty. In other words, treaty definitions would need to be crafted in a manner that clarifies obligations but allows for viable implementation and verification. The GGE engaged in useful technical debate on the pros and cons relating to possible definitions of fissile material, fissile material production and fissile material production facilities, identifying areas of agreement and noting where more study was required.

The GGE considered four possible definitions for fissile material and recognized that each would have its own implications in terms of verification tools to be used, facilities or parts thereof to be verified and extent of intrusiveness, and cost which future negotiators would need to consider. A common thread across these definition models was the belief that highly enriched uranium and plutonium were the core materials that should be at the heart of treaty definitions, on the basis of their weapons applicability. This technical exercise laid a useful foundation for
future negotiators who will need to assess the clear dynamic interrelationship that exists between the various treaty aspects, including definitions, verification and scope.

**Verification**

The GGE’s rich and detailed discussion on treaty verification laid a solid foundation on which further scientific and technical work should be carried out before, during or after negotiations. Significantly, the GGE agreed on the basic objectives for treaty verification, including: (1) deter and detect non-compliance in a timely manner; (2) provide credible assurance that states parties are complying with their treaty obligations; and (3) guard against frivolous and/or abusive allegations of non-compliance. There was broad agreement on some activities that such a verification regime should seek to monitor, including diversion risks and undeclared production and facilities.

There was agreement that a diverse verification toolbox should be created for the treaty, the core of which would be composed of existing verification approaches, tools and techniques currently employed in multilateral and bilateral forums. These, and other tools that could be developed specifically for the treaty, would enable the verification regime to provide credible assurance that states parties are complying with their treaty obligations. Significantly, the verification methods, tools and techniques developed and applied by the treaty could contribute to a broader disarmament verification methodology, as the obligations would be applied equally to all states parties, including those with currently unsafeguarded nuclear facilities.

Canada believes we should not underestimate the work yet to be carried out in order for a verification regime to take into account concerns regarding sensitive information without compromising the credibility and efficacy of verification efforts. Based on the GGE’s fruitful discussions, however, Canada believes it is possible to develop a technically, financially, legally and politically effective package of verification measures for a future treaty. While Canada’s preference is to avoid duplication by drawing on existing relevant IAEA safeguards measures, other measures in the treaty could also be considered. As discussed in detail within the GGE, these could include bilateral and multilateral verification measures, and national technical means, as well as drawing upon the experience of other nuclear non-proliferation, arms control and disarmament treaties and initiatives.

We join those in the GGE who expressed strong support for a non-discriminatory verification regime under which all states parties are subject to the same obligations, and we recognize that this could be achieved even while tailoring verification methods, tools and techniques to facilities in a state on the basis of specific verification objectives, contexts and challenges. The GGE recognized that, in practice, a significant increase in verification requirements would occur in states that operated facilities that were not under safeguards by the IAEA.

**Legal and Institutional Arrangements**

The GGE explored questions related to the legal arrangements and institutional structure of a future treaty, which will be important for its ultimate credibility and effectiveness. Experts pointed to numerous factors that negotiators will need to consider when designing legal and institutional
provisions including the importance of taking into account the experiences of existing international treaties and institutions, and the imperative to place a future treaty in the broader international security context. Against this backdrop, the GGE assessed issues such as treaty governance structures, duration, withdrawal, entry into force and concerns regarding compliance.

**Conclusion**

The work of the GGE represented the most thorough multilateral expert-level assessment of a treaty banning the production of fissile material for nuclear weapons or other explosive devices to date. Given the depth of its exchanges, there is now a better understanding of the potential architecture of such a treaty, including its **scope, definitions, verification** requirements, and associated **legal and institutional arrangements**. While the group's discussions foreshadowed the complex and lengthy nature of any future negotiation, the GGE was unanimous in its belief that this treaty should remain a priority of the international nuclear non-proliferation and nuclear disarmament community. The approach adopted by the GGE was a model of analysis and thoughtful dialogue in a multilateral context on difficult issues at the core of national and global security concerns. The UN General Assembly has a valuable role to play in reinforcing the work done by the GGE including calling for the commencement of negotiations without delay.