



**Nuclear Non-Proliferation Treaty Prep Com 2004**

**PROPOSED DRAFT TREATY**

**BANNING  
THE PRODUCTION OF  
FISSILE MATERIALS FOR  
NUCLEAR WEAPONS AND  
OTHER NUCLEAR EXPLOSIVE DEVICES**

**APRIL 2004**

# **TREATY BANNING THE PRODUCTION OF FISSILE MATERIALS FOR NUCLEAR WEAPONS AND OTHER NUCLEAR EXPLOSIVE DEVICES**

## **PREAMBLE**

The States Parties to this Treaty,

Desiring to contribute to the fulfilment of the purposes and principles of the Charter of the United Nations,

Determined to make significant progress towards general and complete disarmament under strict and effective international verification, particularly rapid progress towards a Convention on the total abolition of nuclear weapons,

Recalling General Assembly resolution 48/75L of 16 December 1993, which recommended the negotiation of a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices,

Noting that all separated fissile materials can be used to fabricate nuclear weapons and other nuclear explosives,

Convinced that the complete and effective prohibition of the production and processing of fissile materials for nuclear weapons or other nuclear explosive devices represents an essential step towards the achievement of their common objectives,

Have agreed as follows:

## **ARTICLE I Definitions and Scope**

1. For the purposes of this Treaty:
  - (a) "Fissile material" means an isotope whose nucleus readily fissions after absorbing a slow (thermal) neutron, emitting 2 or 3 neutrons, and includes uranium-235, plutonium-239 and uranium-233.
  - (b) "Weapon-usable" fissile material means a fissile material that can be used to fabricate effective nuclear explosives;
  - (c) "Weapon-usable plutonium" means plutonium of all isotopic compositions, with the exception of plutonium containing more than 80 per cent of the isotope plutonium-238.
  - (d) "Weapon-usable uranium" or "highly enriched uranium" means uranium enriched to more than 20 per cent in the isotope uranium-235.
  - (e) "Production" means the production of fissile materials in designated plutonium-production reactors, uranium-enrichment plants or any other production facility.

- (f) "Separation of plutonium" means the chemical, laser, and any other separation of plutonium from nuclear reactor fuel elements.
- (g) "Processing" means all activities involved in the handling of and operations with weapon-usable fissile materials, including all fabrication of plutonium-fuel elements and the nuclear activities and operations involved in manufacturing nuclear weapons and other nuclear explosives from weapon-usable fissile materials.
- (h) "Enrichment plant" means a facility used to increase the proportion of uranium-235 in natural uranium above 0.7 per cent.
- (i) "Laser isotope separation" means an enrichment process in which desired isotopes are separated by differentially exciting a vapour gas with a laser.
- (j) "Controlled storage," means the storage of weapon-usable fissile material under the international verification system defined in Article IV.
- (k) "Fuel elements" means material containing weapons usable plutonium or weapons usable uranium.

2. The production, separation and processing facilities to which this Treaty shall apply are listed in Annex II.

## **ARTICLE II**

### **General Obligations**

- 1) No State Party shall undertake the separation or processing of weapon-usable plutonium.
- 2) No State Party shall undertake the production or processing of highly-enriched uranium.
- 3) Each State Party shall submit all existing stocks of weapon-usable fissile materials which are under its jurisdiction or control to international verification and control according to Article IV.
- 4) Each State Party undertakes not to undertake, permit or facilitate or permit or facilitate any person under its jurisdiction or control to undertake the separation or processing of plutonium or the enrichment of uranium to any level above 20 per cent in the isotope uranium-235.
- 5) No State Party shall supply or permit the supply of weapon-usable fissile materials to any State or otherwise export or permit the export or transit through its territory or waters under its jurisdiction of weapons-usable fissile materials or other persons or entities weapon-usable fissile materials.
- 6) Each State Party undertakes to submit all facilities
  - a) owned or possessed operated by it or
  - b) located in any place or operated by any person under its jurisdiction or control,which have been used, or which are capable of being used, for the separation or processing of plutonium or the enrichment of uranium to any level above 20 per cent in the isotope uranium-235 or the processing of such material, or the storage of these materials, to international verification according to Article IV.

- 7) Each State Party undertakes not to enrich uranium above 20 per cent in the isotope uranium-235 or process such enriched uranium for use as fuel for nuclear reactors in ships. Existing stocks of such fuel shall be submitted to international verification according to Article IV.

### **ARTICLE III**

#### **Production, Separation, Processing and Storage Facilities**

1. Each State Party shall immediately cease all activity prohibited by this Treaty, with the exception of essential activity required for the closure of the facilities listed in Annex I.
2. No State Party shall construct any new production, separation or processing facility or modify any facility that has been used for any activity prohibited by this Treaty for any purpose other than the discontinuation of activities prohibited by this Treaty.
3. Each State Party shall:
  - a) Shut down, in accordance with Article IV, no later than 60 days after this Treaty enters into force, all facilities which have been used or could be used for the production, separation or processing of weapon-usable fissile material and give notice thereof to the Organization;
  - b) Submit its existing storage facilities to international verification according to Article IV; and
  - c) Provide access to such facilities for the purpose of the application of the international verification system set out in Annex II in order to ensure that the facilities remain shut down and are subsequently decommissioned.

### **ARTICLE IV**

#### **The Organisation**

1. The States Parties to this Treaty hereby establish the Comprehensive Fissile Material Treaty Organisation (hereafter referred to as "the Organisation") to achieve the objective and purpose of this Treaty, to ensure the implementation of its provisions, including those for international verification of compliance, and to provide a forum for consultation and cooperation.
2. The seat of the Organisation shall be The Hague.
3. The Organisation, as an independent body, shall seek, where practicable, to utilize use existing expertise and facilities, as appropriate, and seek to maximize cost efficiencies, through cooperative arrangements with other relevant international organizations including the International Atomic Energy Agency. Such arrangements shall be provided in agreements to be submitted to the Conference of the States Parties for approval.
4. The Organisation shall verify that all production, separation and processing facilities

- within the territory, jurisdiction or control of each State Party to this Treaty are shut down and do not produce, separate or process fissile materials in violation of Article II. The Organisation shall control the storage of weapon-usable fissile materials but shall devolve responsibility for the verification of other nuclear facilities, such as nuclear-power reactors, to the International Atomic Energy Agency.
5. All States Parties to this treaty shall be members of the Organisation.
  6. The costs of the Organisation's activities shall be paid by States Parties to this treaty in accordance with the United Nations scale of assessment adjusted to take into account differences in membership between the United Nations and the Organisation.
  7. The organs of the Organisation are hereby established: the Conference of Member States, the Council, the Technical Secretariat, and the International Data Centre. The composition and principal powers of the organs shall be as laid down in the following provisions.
  8. The Organisation shall adopt its rules of procedure. Such rules may include provisions concerning the number of terms of office, which its officers may serve, and for the rotation of such offices.
  9. The Commission may establish such subsidiary bodies as are necessary for the performance of its functions.
  10. The Commission may decide to establish a permanent headquarters.
  11. The Commission shall have legal personality and shall enjoy in the territory of each Party such legal capacity as may be necessary to perform its functions and achieve the objectives of this Convention.
  12. The privileges and immunities to be enjoyed by the Organization, the Secretariat and representatives attending meetings in the territory of a Party shall be determined by agreement between the Organisation and the Party concerned.

## **ARTICLE V**

### **The Conference of Member States**

1. The Conference of Member States ("the "Conference") shall be the principal organ of the Organisation. It shall be composed of all the members of the Organisation. Each Member shall have one representative in the Conference.
2. The Conference shall:
  - a) Oversee the implementation of this Treaty and review compliance with its provisions;
  - b) oversee the activities of the Council and the Technical Secretariat;
  - c) elect the members of the Council; and
  - d) appoint the Director of the Technical Secretariat.

**ARTICLE VI**  
**The Council**

1. The Council shall be the executive organ of the Organisation. It shall be accountable to the Conference and shall carry out the functions entrusted to it under this Treaty. In particular, it shall supervise the activities of the Technical Secretariat.
2. The Council shall consist of 24 members elected by the Conference for two-year terms with due regard to equitable geographical distribution. Twelve members shall be chosen from among those States Parties to this treaty which have produced the largest stocks of weapon-usable fissile materials and the other twelve members shall be chosen from those State Parties which have produced no weapon-usable fissile materials.
3. The Organisation shall conclude a Comprehensive Verification Agreement with each State Party to this Treaty. The Council shall determine the content of such Agreements, which shall include an undertaking by the State concerned to accept international verification in respect of all its facilities covered by Article II (5) of the Treaty.

**ARTICLE VII**  
**The Technical Secretariat and the International Data Centre**

1. The Technical Secretariat ("the "Secretariat) shall assist the Conference and the Council in the performance of their duties and shall carry out the verification and other functions entrusted to it by this Treaty, as well as those functions delegated to it by the Conference or the Council in accordance with this Treaty.
2. The Secretariat shall be headed by the Director, who shall be appointed for a four-year term by the Conference on the recommendation of the Council.
3. The Director shall appoint the staff of the Secretariat and shall establish the rules to be followed by the Organisation's inspectors.
4. The Director shall communicate to all States Parties to this treaty the inspectors' names, nationalities and ranks.
5. The Secretariat shall include the International Data Centre.
6. In discharging its responsibilities for verification as specified in this Treaty, in cooperation with the States Parties, the Secretariat shall:
  - a. Make arrangements to receive and distribute data and reports relevant to verification of compliance with this Treaty in accordance with its provisions;

- b. Through its International Data Centre, which shall be the focal point within the Secretariat for data storage and data processing:
  - i. Receive and initiate requests for data;
  - ii. Receive data, resulting from the process of consultation and clarification, from on-site inspections and from confidence-building measures; and
  - iii. Receive other relevant data from States Parties and international organisations in accordance with this Treaty.
- c. Process, analyse and report on data according to agreed procedures so as to permit the effective verification of compliance with this Treaty and to contribute to the timely resolution of any concerns.

## **ARTICLE VIII**

### **National Implementing Measures**

1. Each State Party to this treaty shall, in accordance with its constitutional processes, adopt the necessary measures to implement the treaty. In particular, it shall:
  - a) Prohibit natural and legal persons anywhere on its territory or in any place under its jurisdiction or control from undertaking any activity prohibited by this Treaty;
  - b) Not permit in any place under its jurisdiction or control any activity prohibited by this Treaty;
  - c) Enact penal legislation with respect to all activities prohibited by this Treaty; and
  - d) Extend such legislation, in conformity with international law, to any activity prohibited by this Treaty undertaken anywhere by persons possessing its nationality and to vessels flying its flag.

## **ARTICLE IX**

### **Settlement of Disputes**

1. Disputes that may arise concerning the application or interpretation of this Treaty shall be settled in accordance with the provisions of the Charter of the United Nations.
2. When a dispute arises between two or more State Parties to this treaty, or between one or more States Parties and the Organisation, relating to the application or interpretation of this Treaty, a State shall following notification by another State shall consult with other State or States concerned with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of the Parties' choice.
3. If expeditious settlement cannot be reached within thirty days of the first notification by a party, the dispute shall be referred to the International Court of Justice for

binding determination in conformity with the Statute of the Court. The States Parties involved shall keep the Council informed of actions being taken.

#### **ARTICLE X**

##### **Duration**

1. This Treaty shall be of unlimited duration.

#### **ARTICLE XI**

##### **Status of Annexes**

1. The Annexes shall form an integral part of this Treaty. Any reference to this Treaty shall include the Annexes.

#### **ARTICLE XII**

##### **Signature**

1. This Treaty shall be open to all States for signature before its entry into force.

#### **ARTICLE XIII**

##### **Ratification**

This Treaty shall be subject to ratification by signatory States.

#### **ARTICLE XIV**

##### **Accession**

1. Any State which does not sign this Treaty before its entry into force may accede to it at any time thereafter.

#### **ARTICLE XV**

##### **Entry into force**

1. This Treaty shall enter into force thirty days after the date of the deposit of the thirtieth instrument of ratification.
2. For States whose instruments of ratification or accession are deposited after the entry into force of this Treaty, it shall enter into force on the 30th day following the date of deposit of their instrument of ratification or accession.

#### **ARTICLE XVI**

##### **Reservations**

1. No reservations shall be made to this Treaty.

#### **ARTICLE XVII**

##### **Depositary**

1. The Secretary-General of the United Nations is hereby designated as the depositary of this Treaty. The Secretary-General shall, inter alia:
  - a) Promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of entry into force of this Treaty;
  - b) Transmit duly certified copies of this Treaty to the Governments of all signatory and acceding States; and
  - c) Register this Treaty pursuant to Article 102 of Charter of the United Nations.

### **ARTICLE XVIII**

#### **Authentic texts**

1. This Treaty, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorised to that effect, have signed  
this Treaty.

Done at [Geneva] on the [xx] day of [xxxx], two thousand and xxxxx.

## **ANNEX I VERIFICATION**

1. The Organisation shall ensure that all facilities and materials are verified in accordance with this Treaty. For this purpose it shall send inspectors into the facilities designated in Annex II.
2. Methods used by the Organisation to monitor compliance with the Treaty shall include: declarations, material accountancy, operating records, containment, surveillance, third party information and inspections.
3. Inspections may be ad hoc, routine or challenge. The legal basis of the Organisation's right to make challenge inspections shall be the Comprehensive Verification Agreements referred to in Article VI(3) of the Treaty.
4. An initial inspection shall be made promptly after a facility has been declared. Thereafter, inspections shall be conducted at least once a year. A minimum of 24 hours' notice of an ad hoc or routine inspection shall normally be given to the State party concerned.
5. The Director shall transmit inspection reports to the Conference of Member States and shall inform the Council of all cases of non-compliance with the Treaty. In the event of non-compliance, the Council shall call upon the State Party concerned to fulfil its obligations under the Treaty within thirty days and shall report all breaches of the Treaty to the Security Council of the United Nations.