

Original: ENGLISH

**BASIC DOCUMENTS OF THE CONFERENCE ON DISARMAMENT
RELATED TO NEW TYPES OF WEAPONS OF MASS DESTRUCTION
AND NEW SYSTEMS OF SUCH WEAPONS; RADIOLOGICAL
WEAPONS**

Compilation prepared by the Secretariat

Symbol	Subject of the document	Date
CD/31	<u>USSR - "Agreed Joint USSR-US Proposal on Major Elements of a Treaty Prohibiting the Development, Production, Stockpiling and Use of Radiological Weapons"</u>	9 July 1979
CD/32	<u>USA - "Agreed Joint US-USSR Proposal on Major Elements of a Treaty Prohibiting the Development, Production, Stockpiling and Use of Radiological Weapons"</u>	9 July 1979
CD/35	USSR - Negotiations on the Question of the Prohibition of New Types of WMD and New Systems of Such Weapons	10 July 1979
CD/40	Hungary - Draft Preambular part of the Treaty on the Prohibition of the Development, Manufacture, Stockpiling and use of Radiological Weapons	23 July 1979
CD/42	German Democratic Republic - Draft Paragraphs of the Treaty on the Prohibition of the Development, Manufacture, Stockpiling and Use of Radiological Weapons	25 July 1979
CD/79	Decision Adopted at the 69 th plenary meeting	17 March 1980
CD/104	Compilation of relevant documents on radiological weapons covering the period 1979-1980	26 June 1980
CD/118	USSR - Draft Decision of the Committee on Disarmament on the establishment of an ad hoc group of experts to prepare a draft comprehensive agreement and to consider the question of	15 July 1980

concluding special agreements on individual new types and systems of weapons of mass destruction

CD/133*	Ad Hoc Working Group established with a view to reachingt agreement on a Convention Prohibiting the Development, Production, Stockpiling and use of Radiological Weapons	8 August 1980
CD/151	Decision Adopted by the Committee on Ad Hoc Working Groups at its 105 th plenary meeting	13 February 1981
CD/174	Hungary - Proposal for informal meetings of the Committee on Disarmament with participation of qualified governmental experts on the prohibition of development and manufacture of new types of weapons of mass destruction and new systems of such weapons	7 April 1981
CD/218	Report of the Ad Hoc Working Group on Radiological Weapons	14 August 1981
CD/243	Decision Adopted by the Committee on Disarmament on Ad Hoc Working Groups at its 156 th plenary meeting	19 February 1982
CD/261	Hungary - Prohibition of the Development and Manufacture of New Types of Weapons of Mass Destruction and New Systems of Such Weapons	15 March 1982
CD/284*/ Rev.1	Special Report to the Committee on Disarmament in view of the Second Special Session devoted to disarmament Ad Hoc Working Group on Radiological Weapons	23 April 1982
CD/289	Statement by the Chairman of the Ad Hoc Working Group on Radiological Weapons	21 April 1982
CD/292	Special Report of the Committee on Disarmament to the Second Special Session of the General Assembly devoted to disarmament (pages 49-55)	28 April 1982
CD/323 and Corr.1	Japan – Prohibition of Attacks Against Nuclear Facilities	1 September 1982
CD/331	Federal Republic of Germany – Issues related to a Prohibition of Attacks Against Nuclear Facilities in the Framework of a Radiological Weapons Treaty	13 September 1982
CD/345	The group of Socialist Countries - Ensuring the Safe Development of Nuclear Energy	14 February 1983
CD/414	Report of the Ad Hoc Working Group on Radiological Weapons	18 August 1983
CD/530	Sweden – Proposals for parts of a Treaty Prohibiting Radiological Weapons and the Release or Dissemination of Radioactive Material for Hostile Purposes	3 August 1984

CD/533	Report of the Ad Hoc Committee on Radiological Weapons	10 August 1984
CD/590	Canada - Compendium of CD Verbatim Records and Working Papers on Radiological Weapons	17 April 1985
CD/594	A group of Socialist States - Prohibition of Radiological Weapons and Prohibition of Attacks Against Nuclear Facilities	12 June 1985
CD/635*	Report of the Ad Hoc Committee on Radiological Weapons	22 August 1985
CD/722	Report of the Ad Hoc Committee on Radiological Weapons	11 August 1986
CD/779	Report of the Ad Hoc Committee on Radiological Weapons	10 August 1987
CD/864	Report of the Ad Hoc Committee on Radiological Weapons	29 August 1988
CD/928	Hungary - Suggested Scopes for the Prohibition of Radiological Weapons	6 July 1989
CD/929	Peru - Draft Convention on the Prohibition of Attacks against Nuclear Installations	6 July 1989
CD/946	Report of the Ad Hoc Committee on Radiological Weapons	7 August 1989
CD/1039	Report of the CD - New Types of Weapons of Mass Destruction and New Systems of Such Weapons; Radiological Weapons (Pages 329-338)	30 August 1990
CD/1099	Report of the Ad Hoc Committee on Radiological Weapons	13 August 1991
CD/1173	Report of the CD - New Types of Weapons of Mass Destruction and New Systems of Such Weapons: Radiological Weapons (pages 74-82)	3 September 1992
CD/1681	<u>Germany - Discussion Paper - Radiological Weapons</u>	15 August 2002

AGREED JOINT USSR-UNITED STATES PROPOSAL ON MAJOR ELEMENTS
OF A TREATY PROHIBITING THE DEVELOPMENT, PRODUCTION,
STOCKPILING AND USE OF RADIOLOGICAL WEAPONS

I

Each State Party to the Treaty undertakes not to develop, produce, stockpile, otherwise acquire or possess, or use radiological weapons.

II

For the purpose of the Treaty, the term "radiological weapon" means:

1. Any device, including any weapon or equipment, other than a nuclear explosive device, specifically designed to employ radioactive material by disseminating it to cause destruction, damage or injury by means of the radiation produced by the decay of such material.
2. Any radioactive material, other than that produced, by a nuclear explosive device, specifically designed for employment, by its dissemination, to cause destruction, damage or injury by means of the radiation produced by the decay of such material.

III

Each State Party to the Treaty also undertakes not to employ deliberately, by its dissemination, any radioactive material not defined as a radiological weapon in paragraph II, subparagraph 2, and not produced by a nuclear explosive device, to cause destruction, damage or injury by means of the radiation produced by the decay of such material.

IV

Each State Party to the Treaty undertakes not to assist, encourage, or induce any person, State, group of States or international organization to engage in any of the activities which the Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs I and III.

V

Provisions of the Treaty shall not hinder the use of sources of radiation from radioactive decay for peaceful purposes and shall be without prejudice to any generally recognized principles and applicable rules of international law concerning such use.

VI

Each State Party to the Treaty undertakes, in accordance with its constitutional procedures, to take any measures which it deems necessary to prevent loss of and to prohibit and prevent diversion of radioactive materials that might be used in radiological weapons and any activities contrary to the provisions of the Treaty in its territory or at any place under its jurisdiction or under its control.

VII

Nothing in the Treaty shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Treaty on the Non-Proliferation of Nuclear Weapons, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, or any existing rules of international law governing armed conflict.

VIII

1. The States Parties to the Treaty undertake to consult one another and to co-operate in solving any problems which may arise in relation to the objectives of, or in the application of the provisions of, the Treaty. Consultation and co-operation pursuant to this paragraph may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Consultative Committee of Experts as provided for in subparagraph 2 of this paragraph.
2. For the purposes set forth in subparagraph 1 of this paragraph, the Depositary shall, within one month of the receipt of a request from any State Party, convene a Consultative Committee of Experts. Any State Party may appoint an expert to this Committee, whose functions and rules of procedure are set out in the Annex, which constitutes an integral part of the Treaty. The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all States Parties.
3. Any State Party to the Treaty which has reasons to believe that any other State Party is acting in breach of obligations deriving from the provisions of the Treaty may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all relevant information as well as all possible evidence supporting its validity.

4. Any State Party to the Treaty undertakes to co-operate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the States Parties to the Treaty of the results of the investigation.

5. Each State Party to the Treaty undertakes to provide or support assistance, in accordance with the provisions of the Charter of the United Nations, to any Party to the Treaty which so requests, if the Security Council decides that such Party has been harmed or is likely to be harmed as a result of violation of the Treaty.

IX

1. A State Party may propose amendments to the Treaty. Each proposed amendment shall be submitted to the Depositary, which shall promptly transmit it to all States Parties.
2. An amendment shall enter into force for each State Party accepting the amendment after the deposit with the Depositary of documents of acceptance by a majority of the States Parties. Thereafter, the amendment shall enter into force for each remaining State Party on the date of the deposit by it of the acceptance document.

X

1. The Treaty shall be of unlimited duration.
2. Each State Party to the Treaty shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of the Treaty, have jeopardized the supreme interest of its country. It shall give notice of such withdrawal to all other States Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

XI

1. Ten years after entry into force of the Treaty, or earlier if requested by a majority of States Parties, a conference of States Parties should be convened to review the operation of the Treaty, with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review should take into account any new scientific and technological developments relevant to the Treaty.
2. Thereafter, a majority of the States Parties could obtain the convening of a conference with the same objectives.

3. If no review conference has been convened within (blank) years following the conclusion of a previous review conference, the Depositary should solicit the views of all States Parties on the holding of such a conference. If (blank fraction) or (blank number) of the States Parties, whichever number is less, respond affirmatively, the Depositary should take immediate steps to convene the conference.

XII

1. The Treaty shall be open to all States for signature. A State which does not sign the Treaty before its entry into force in accordance with subparagraph 3 of this paragraph may accede to it at any time.
2. The Treaty shall be subject to ratification by signatory States. Instruments of ratification and accession shall be deposited with the Secretary-General of the United Nations.
3. The Treaty shall enter into force upon the deposit of the instruments of ratification by (blank) Governments in accordance with subparagraph 2 of this paragraph.
4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of the Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.
5. The Depositary shall 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 the Treaty, as well as of any amendment to it and of the receipt of other notices.
6. The Treaty shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

XIII

The Treaty, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall transmit duly certified copies of the Treaty to the Governments of the signatory and acceding States.

Annex to the Treaty

Consultative Committee of Experts

1. The Consultative Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to paragraph VIII, subparagraph 1, of the Treaty by the State Party requesting the convening of the Committee.
2. The work of the Consultative Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this Annex. The Committee shall decide procedural questions relative to the organization of its work, where possible by consensus, but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.
3. The Depositary or his representative shall serve as the Chairman of the Committee.
4. Each expert may be assisted at meetings by one or more advisers.
5. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work.

Agreed Joint US-USSR Proposal on Major Elements of
a Treaty Prohibiting the Development, Production,
Stockpiling and Use of Radiological Weapons

I

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IV

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2. For the purposes set forth in Subparagraph 1 of this Paragraph, the Depositary shall, within one month of the receipt of a request from any State Party, convene a Consultative Committee of Experts. Any State Party may appoint an expert to this Committee, whose functions and rules of procedure are set out in the Annex, which constitutes an integral part of the Treaty. The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all States Parties.

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XI

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2. Thereafter, a majority of the States Parties could obtain the convening of a conference with the same objectives.

3. If no review conference has been convened within (blank) years following the conclusion of a previous review conference, the Depositary should solicit the views of all States Parties on the holding of such a conference. If (blank fraction) or (blank number) of the States Parties, whichever number is less, respond affirmatively, the Depositary should take immediate steps to convene the conference.

XIII

1. The treaty shall be open to all States for signature. A State which does not sign the Treaty before its entry into force in accordance with Subparagraph 5 of this Paragraph may accede to it at any time.

2. The Treaty shall be subject to ratification by signatory States. Instruments of ratification and accession shall be deposited with the Secretary General of the United Nations.

3. The Treaty shall enter into force upon the deposit of the instruments of ratification by (blank) Governments in accordance with Subparagraph 2 of this Paragraph.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of the Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary shall 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 the Treaty, as well as of any amendment to it and of the receipt of other notices.

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UNION OF SOVIET SOCIALIST REPUBLICS

Negotiations on the question of the
prohibition of new types of weapons
of mass destruction and new systems
of such weapons

In the context of the current scientific and technological revolution and the unprecedented increase in the role of science in accelerating the general progress of mankind, there is, quite objectively, a growing danger of scientific and technological achievements being used to develop new weapons and, what is particularly dangerous, to develop new types and systems of weapons of mass destruction. As everyone knows, the process by which new weapons are developed -- once started -- is extremely difficult to stop. It is therefore vitally important, without waiting for any such irreversible turn of events, to obviate the very possibility of new types of weapons of mass destruction being developed.

To this end, the Soviet Union submitted a draft "agreement on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons" to the General Assembly of the United Nations in 1975. The General Assembly requested the Committee on Disarmament to work out the text of a draft international agreement on this question.

Subject of negotiations

Taking account of the progress made in the discussion of this draft agreement, the Soviet Union submitted an expanded draft agreement on the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons to the Committee on Disarmament in August 1977 (CCD/511/Rev.1). In this document, the Soviet Union drew attention to the question that must be resolved before all others, namely, that of the subject and scope of the prohibition.

The expanded Soviet draft agreement envisages a definition of new types and systems of weapons of mass destruction that is as close as possible to the 1948 formula on which there is already broad agreement among many States.

In order to make it easier to arrive at a generally-acceptable solution to the question of the scope of the prohibition, the Soviet Union considered that it would be useful for the agreement to contain both a general definition of the new types of weapons of mass destruction to be prohibited and a list of the specific types and systems of such weapons. This approach is reflected in the expanded draft agreement, the annex to which contains an approximate list of types and systems of weapons of mass destruction, including:

- (1) Radiological means acting with the aid of radioactive materials;
- (2) Technical means of inflicting radiation injury based on the use of charged or neutral particles to affect biological targets;
- (3) Infrasonic means using acoustic radiation to affect biological targets;
- (4) Means using electromagnetic radiation to affect biological targets.

In order to accommodate the views of members of the Committee on Disarmament, the Soviet side had the expanded draft agreement provide for the possibility, should the need arise, of prohibiting specific new types and systems of weapons of mass destruction on the basis of separate agreements.

Thus, the proposals of the USSR on the scope and subject of the prohibition provide for: (a) The conclusion of a comprehensive agreement on the prohibition of the development and manufacture of new types and systems of weapons of mass destruction, with a list of specific types of weapons to be prohibited; (b) The possibility of supplementing the list of prohibited new types of weapons of mass destruction in the future; and (c) The possibility of concluding separate agreements on specific new types of weapons of mass destruction.

Scientific and technical basis for the
possible development of certain new types
of weapons of mass destruction

The approximate list of possible new types and systems of weapons of mass destruction covers physical effects, the harmful or fatal consequences of which for the human organism have already been thoroughly investigated; the general level and orientations of the corresponding fields of science and technology are such that these physical effects might find a practical application in real weapons in the foreseeable future.

1. Radiological weapons

The danger of radiological weapons being developed is based on the existence in principle of the possibility of using radioactive materials in order to injure, damage or cause harm by means of the radioactive radiation produced when such materials decay.

The way in which radioactive materials affect human beings has been adequately studied and consists in the destruction of biological structures under the influence of the ionizing radiation resulting from the radioactive decay of such materials. There

is every reason to believe that the effects of radiological weapons, should they be developed, would be similar to the effects of the radioactive materials which are formed in nuclear explosions and which cause the radioactive contamination of the area. The danger of radiological weapons appearing is increased by the rapid development of nuclear industry and technology in many countries of the world; this creates the objective conditions necessary for the widespread dissemination of radioactive materials and increases the potential danger of such materials being used to develop radiological weapons.

There is broad international agreement on the question of the need to prevent the possible emergence of radiological weapons. The joint USSR-United States negotiations on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons have now been successfully completed and the agreed proposals on this question have been submitted to the Committee on Disarmament for consideration.

2. Technical means of inflicting radiation injury based on the use of charged or neutral particles to affect biological targets

The danger with regard to the development of technical means of inflicting radiation injury based on the use of charged or neutral particles lies in the existence of the possibility of in principle using bundles of charged or neutral particles (electrons, protons, neutral atoms, etc.) to cause injury to biological targets, and in the existence — even now — of the scientific and technological basis for the possible future development of sources of such particles that could be used for these purposes. It has been established with a considerable degree of certainty that the way in which the particles that can be used for such purposes cause injury is in many respects similar to the way in which the radiation from a nuclear explosion causes injury.

Sufficiently powerful bundles of charged or neutral particles can now be produced in, for example, the accelerators which are being widely used both for research on high-energy physics and the atomic nucleus and for work in other fields of science and technology, including agriculture and medicine. Several

countries are already operating or installing proton accelerators in which the energy of the accelerated particles attains hundreds of millions of electron volts, high-current accelerators of the meson facility type and high-current continuous or pulsed electron accelerators. Several countries are carrying out intensive work on the development of fundamentally new methods of accelerating charged particles, and, taken together with the success achieved with regard to the development of superconducting materials, this opens up real possibilities of reducing the size and weight of accelerator systems and the sources of energy used to operate them and, in theory, paves the way in the foreseeable future for the development of powerful accelerator devices -- whose weight and dimensions could permit their use as weapons. Direct confirmation of the possibility of this happening is provided by the programme of work being carried out in the United States with a view to developing weapons using bundles of accelerated charged or neutral particles, as may be seen from published accounts of hearings in the United States Congress and other material that has appeared in the United States press.

3. Infrasonic means using acoustic radiation to affect biological targets

Weapons based on the utilization of the radiation of acoustic generators in the infrasonic range may become one of the possible new types of weapons of mass destruction. Data to be found in scientific literature convincingly demonstrate the existence of a wide spectrum of damaging effects of infrasonic oscillations on the human organism and other biological targets. The mechanism of such effects can be of the most widely varying kind -- mechanical, biological or neurochemical. Evidence of the danger of the damaging effects of such oscillations on human beings is, in particular, offered by the fact that many countries have already introduced health regulations in respect of maximum admissible acoustic effects. Particular concern is caused by available data concerning the harmful effects of low-power infrasonic oscillations on biocurrents of the brain and the nervous system as a whole and, thereby, on the psychic condition and intellect of human beings. In assessing the potential danger of the utilization of infrasound as a weapon of mass destruction, great importance attaches to its basic physical property -- that of practically unimpeded propagation over large distances without noticeable attenuation. The development of powerful engines in connexion with advances in rocket technology, supersonic aircraft and in other areas of technology offers a technical basis for the creation of powerful long-range installations with characteristics which may make such installations suitable for use as infrasonic weapons.

4. Means using electromagnetic radiation to affect biological targets

As a result of research into the effects of electromagnetic radiation on biological targets, the existence of harmful effects of radio-frequency radiations within a wide range of frequencies on such vitally important organs of the human body as the heart, the brain and the central nervous system may now be regarded as a firmly established fact. Assessments quoted in international literature of the potential danger of the development of a new weapon of mass destruction are based on the results of research into the so-called "non-thermal" effects of electromagnetic radiation on biological targets. These effects may take the form of damage to or disruption of the functioning of the internal organs and systems of the human organism or of changes in its functioning.

As regards the possibility of devising technical means of generating electromagnetic radiation, many countries already have a highly developed technical base in the field of radio engineering and radio electronics. Powerful high-frequency generators, radar devices and other radio engineering installations

serving various purposes have been developed and brought into use. The development of these means reflects a common trend in that efforts are being made to improve their characteristics, increase their efficiency and reduce their dimensions. Data available in the scientific literature show that the peak capacity of electromagnetic radiation generators has increased almost a hundredfold during the past four years alone. It is expected that, in the next five or six years, means capable of the directional transmission of electromagnetic radiation of enormous power over distances of several hundred kilometres will be devised. In this connexion it is anticipated that levels of electromagnetic radiation density in excess of known safety standards will be attainable in areas measuring dozens of square kilometres.

It is therefore to be expected that, taking into account further achievements in science and technology, it may be possible in time to devise means of generating powerful electromagnetic oscillations whose parameters could make those means suitable for use as a new type of weapon of mass destruction.

During the course of the discussion in the Committee on Disarmament of the question of the prohibition of new types and systems of weapons of mass destruction, Soviet experts as well as experts from a number of other countries adduced concrete scientific data and facts which convincingly demonstrate that, in view of the present level of science and technology in certain areas, it is scientifically justified to speak of the possibility of developing corresponding new types of weapons of mass destruction, and in particular those listed in the annex to the expanded draft agreement. It is practically no longer possible at the present time to dispute the fact that the possibility of developing new types and systems of weapons of mass destruction -- the consequences of whose emergence are as yet difficult to foresee -- exists, and that the problem of the comprehensive prohibition of the development, manufacture and stockpiling of new types and systems of such weapons is therefore a pressing one.

Organizational measures

Taking into account the approach adopted by the Western countries to the solution of the problem of the prohibition of new types and systems of weapons of mass destruction, the Soviet Union took yet another constructive step, and on 28 March 1978 proposed the establishment, under the auspices of the Committee on Disarmament, of an ad hoc group of qualified governmental experts to consider the question of possible areas of the development of new types and systems of weapons of mass destruction to be included in the initial list of the types of such weapons to be prohibited under a comprehensive agreement. This would ensure an even more

comprehensive study and identification of potentially dangerous areas as regards the development of new types of weapons of mass destruction. A group of this kind could continuously observe developments in this field and, at the very earliest stage of the possible emergence of new types of weapons of mass destruction, make appropriate recommendations to the Committee on Disarmament.

Other negotiations

The conduct of negotiations on the prohibition of new types of weapons of mass destruction and new systems of such weapons will be without prejudice to bilateral and multilateral negotiations relating to various aspects of arms limitation and disarmament.

* * *

The world's concern at the danger of the development of weapons of mass destruction is reflected in paragraph 39 of the Final Document adopted by the special session of the United Nations General Assembly in 1978, which emphasizes that:

"Qualitative and quantitative disarmament measures are both important for halting the arms race. Efforts to that end must include negotiations on the limitation and cessation of the qualitative improvement of armaments, especially weapons of mass destruction and the development of new means of warfare so that ultimately scientific and technological achievements may be used solely for peaceful purposes".

The decision proposed by the Soviet Union makes it possible to achieve the prohibition of the development and manufacture of new types and systems of weapons of mass destruction in potentially dangerous areas already detected and also, in principle, to erect a barrier against the possible emergence of such weapons as a result of progress in other spheres of science and technology.

23 July 1979

Original: ENGLISH

HUNGARY

Working paper on the draft preambular part of the Treaty
on the Prohibition of the Development, Manufacture,
Stockpiling and use of Radiological Weapons

The States Parties to this Treaty,

Determined to further enhance international peace and security and to save mankind from the danger of the use of new means of warfare and to contribute to the cause of the cessation of the arms race with the final goal of achieving general and complete disarmament under strict and effective international control and to continue negotiations to achieve further progress in the disarmament field,

Convinced of the importance of adopting effective measures to prevent the use of scientific and technological achievements for developing new types and systems of weapons of mass destruction including radiological weapons,

Realizing the threatening possibility of the development and deployment of radiological weapons in the arsenal of armed forces of States

Recalling that the General Assembly of the United Nations called for the prohibition of development, production, stockpiling and use of radiological weapons,

Conscious that the use of radiological weapons would have devastating consequences for mankind,

Convinced that the prohibition of radiological weapons will contribute to the preservation of the natural environment for the present and future generations,

Recognizing the need for peaceful uses of sources of radiation from radioactive decay in different fields of human activities,

Desiring to further confidence and peaceful relations among States and to improve international atmosphere in accordance with the purposes and principles of the Charter of the United Nations

Have agreed on the following:

CD/42
25 July 1979

Original: ENGLISH

GERMAN DEMOCRATIC REPUBLIC

Working paper on draft paragraph XI, subparagraph 3, and paragraph XII,
subparagraph 3, of the Treaty on the Prohibition of the Development,
Manufacture, Stockpiling and Use of Radiological Weapons

Paragraph XI, subparagraph 3

If no review conference has been convened within ten years following the conclusion of a previous review conference, the Depositary should solicit the views of all States Parties on the holding of such a conference. If one-third or ten of the States Parties, whichever number is less, respond affirmatively, the Depositary should take immediate steps to convene the conference.

Paragraph XII, subparagraph 3

The Treaty shall enter into force upon the deposit of the instruments of ratification by 25 Governments (including the nuclear-weapon States) in accordance with subparagraph 2 of this paragraph.

CD/79

17 March 1980

Original: ENGLISH

Decision adopted at the 69th plenary meeting held on 17 March 1980
(originally submitted as Working Paper No.9/Rev.1)

The Committee on Disarmament decides to establish for the duration of its 1980 session an ad hoc working group of the Committee with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons.

The ad hoc working group will report to the Committee on the progress of its work at any appropriate time and in any case before the conclusion of its 1980 session.

Compilation of relevant documents on radiological
weapons covering the period 1979 - 1980

(Prepared by the Secretariat at the request of
the Committee on Disarmament)

At its 69th plenary meeting, the Committee on Disarmament decided to establish for the duration of its 1980 session an ad hoc working group of the Committee with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons (document CD/79).

At its first meeting on 24 April 1980, the ad hoc working group on radiological weapons requested the Secretariat to prepare a compilation of relevant documents on radiological weapons which should cover the period 1979 - 1980 including a short summary of the development of the preceeding period. That compilation should be divided into two main sections: the first dealing with statements of a general character and the second incorporating specific proposals, which should be prepared in a systematic manner.

In carrying out its task, the Secretariat adopted the following criteria:

- (a) As requested, the compilation refers mainly to statements made at and working papers submitted to the General Assembly and the Committee on Disarmament.
- (b) The compilation covers the period 1979 - April 1980. Only a summary of developments in the preceeding period is included as an introduction.
- (c) The compilation consists of a summary description of the main points covered in relevant documents and statements.
- (d) In the compilation views are not attributed to any particular delegation. However, a list of references to sources is provided.

- (e) No reference is made to informal meetings, since no records exist for them.
- (f) The text of the compilation was arranged under headings that roughly followed the provisions of the proposals submitted to the Committee on Disarmament, as well as the proposals and suggestions contained in relevant working papers and statements.

OUTLINE

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I. Introduction

As early as 1948, a resolution adopted by the Commission of the United Nations for Conventional Armaments stated that weapons of mass destruction had to be defined to include, inter alia, "radio-active material weapons".¹

In 1969, the General Assembly took up the issue for the first time and adopted resolution 2602 C (XXIV) by which the Conference of the Committee on Disarmament (CCD) was invited to consider the question of controls against the use of radiological methods of warfare conducted independently of nuclear explosions.² At that time the CCD considered this proposal and concluded that it was difficult to see the practical usefulness of discussing measures related to radiological weapons.³

After a lapse of six years, in 1976, the CCD, taking into account the new developments and trends in science and technology, considered the question of the prohibition of the development and manufacture of new types of weapons of mass destruction and of new systems of such weapons.⁴ The General Assembly, at its thirty-first session took up and discussed briefly the question of the prohibition of radiological weapons. No draft resolution was submitted on the question.⁵

Two divergent approaches on the issue emerged and continued to persist. Some delegations expressed preference for a comprehensive prohibition of the development and manufacture of new types and systems of weapons of mass destruction, which would contain a list of specific weapons to be banned. Other delegations advocated

conclusion of separate conventions concerning specific new types of weapons of mass destruction which might emerge and could be identified.⁶ While this discussion was proceeding in disarmament bodies, the question of the prohibition of radiological weapons became the subject of bilateral USSR-USA negotiations.

In 1978, the Tenth Special Session of the General Assembly considered the issue and its Final Document incorporated relevant provisions in paragraphs 76 and 77.⁷

In 1979, the Committee on Disarmament decided to include in its agenda an item entitled "New types of weapons of mass destruction and new systems of such weapons; radiological weapons", which was again inscribed in its agenda for 1980.

In 1979, the participants in the bilateral talks produced and submitted to the Committee on Disarmament an "agreed joint proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons".⁸ The General Assembly, at its thirty-fourth session, adopted resolution 34/87 A which requested the Committee on Disarmament to proceed as soon as possible "to achieve agreement, through negotiations, on the text of such a convention" and to report to the General Assembly at its thirty-fifth session.⁹

I. Statements of a general character

1. Approaches

It was generally accepted that the need of preventing the emergence of radiological weapons arose with the rapid development of nuclear energy and technology and the increasing accumulation of radioactive materials throughout the world. The international community, therefore, should prevent the use of scientific and technological progress for the purpose of developing such weapons.

In this context the radiological weapons, on one hand, were regarded as one of the categories of weapons of mass destruction identified by the United Nations which was not already prohibited and thus the ban would fill a gap in the set of multilateral agreements dealing with those weapons; such a ban would represent a first step which could be followed by the prohibition of specific and clearly identified types of weapons.¹⁰

On the other hand, the prohibition of particular types of weapons of mass destruction, including radiological weapons, was regarded as a part of the solution to the problem of the comprehensive prohibition of new types and systems of such weapons.¹¹

The ban would constitute yet another important contribution to the limitation of the arms race;¹² a contribution to the total scheme of control and ultimate disarmament¹³; a timely response to the appeal contained in paragraph 76 of the Final Document of the Tenth Special Session;¹⁴ an unique opportunity to ban a system before it comes into existence.¹⁵ The provisions of a future convention would not have the effect of discriminating against any State, particularly between nuclear and non-nuclear States.¹⁶

2. Relationship with other disarmament measures and/or agreements

Views were expressed that the future treaty on radiological weapons should be properly integrated in the framework of the existing international legal arrangements in the field of disarmament - in particular, the Non-Proliferation Treaty and the Geneva Protocol of 1925 - without prejudice to the obligations or rights of States under those treaties.¹⁷ Any misconception should be prevented that the convention on radiological weapons was to be regarded as a substitute to nuclear disarmament.¹⁸ The provisions of the future agreement should not call in question the basic provisions of the Non-Proliferation Treaty.¹⁹ The future convention

or agreement should not detract from an existing convention or any convention under negotiations.²⁰ A provision mentioning the Non-Proliferation Treaty would create difficulties for the States non-parties to the Treaty.²¹ Coordination with the Convention on the Physical Protection of Nuclear Materials could be envisaged.²²

3. Priorities and timing

The negotiations should start and the completion of the draft treaty be pursued with a view to submitting it to the thirty-fifth session of the General Assembly.²³ The urgency of making progress in nuclear disarmament is far greater than that of concluding a radiological weapons treaty.²⁴ The radiological weapons item is far from being one of those which call for priority attention; however, if feasible, a complete draft treaty could be transmitted to the General Assembly for examination at its next session.²⁵ The negotiations on a draft treaty on radiological weapons are not a matter of first priority and should not be held at the expense of urgent priority items agreed upon.²⁶

4. Peaceful use of radioactive material

It should be made clear that the treaty does not apply to any of the uses of radiation from radioactive decay for peaceful purposes.²⁷ The treaty should in no way prejudice the principle of the peaceful use of radiological resources, and the need for the exchange of information in this field.²⁸ No provision of the convention on the radiological weapons should impinge on the development and operation of peaceful nuclear programmes, especially of the developing countries; it should not compromise the freedom of scientific research.²⁹

5. Complaints procedure and verification

Verification system provided for in the treaty prohibiting radiological weapons should be without prejudice to and not binding for any other real disarmament agreement which would be negotiated in the future.³⁰ The implications of the verification procedure for other disarmament agreements should be studied.³¹ The complaint procedures should be non-discriminatory in character and result in an effective and fair convention.³² The verification machinery should be effective, non-discriminatory, and acceptable to all the countries concerned.³³ Loopholes in the verification machinery should be avoided.³⁴ The envisaged complaints procedure should not be regarded as a model for any other future arms

control and disarmament convention.³⁵ Verification measures provided for any agreement on arms limitation should correspond to the subject and scope of the prohibition.³⁶ The measures of verification should be adequate to the special nature of the weapons to be controlled.³⁷

6. Terminology

The future treaty should adopt terminology which would be fully consistent with the rights and obligations under other international legal instruments and allow for no ambiguity.³⁸ Any ambiguity in the text should be avoided.³⁹

II. Specific Proposals:

1. Preambular part

Various suggestions, as indicated below, have been made regarding the preambular part. It was proposed that it should note the determination of the parties to the treaty to further enhance international peace and security and to save mankind from the danger of the use of new means of warfare and to contribute to the cause of the cessation of the arms race with the final goal of achieving general and complete disarmament and to continue negotiations on disarmament; the importance of adopting effective measures to prevent the use of scientific and technological achievements for developing new types and systems of weapons of mass destruction including radiological weapons; the threatening possibility of the development and deployment of radiological weapons in the arsenals of armed forces of States; that the General Assembly of the United Nations called for the prohibition of development, production, stockpiling and use of radiological weapons; that the use of radiological weapons would have devastating consequences for mankind; that the prohibition of radiological weapons will contribute to the preservation of the natural environment for the present and future generations; the need for peaceful uses of sources of radiation from radioactive decay; and the desire to further confidence and peaceful relations among States in accordance with the Charter of the United Nations.⁴⁰ It was also suggested that reference should be made in the preamble to the importance and priority of nuclear disarmament.⁴¹ It would be advisable to state in precise terms the basic objective of nuclear disarmament.⁴²

2. Scope of the prohibition

The development, production, stockpiling, otherwise acquiring or possessing, or use of radiological weapons should be prohibited.⁴³ With regard to the scope, it was stated that no obligation undertaken by States in the projected treaty should be interpreted as covering the use of radioactive materials or any sources of radiation for the purpose of any activity except such activities as the parties to the treaty had undertaken not to engage in pursuant to the provisions of the treaty.⁴⁴ Some delegations felt that the activities mentioned in the above statement needed clarification.⁴⁵ In order to eliminate any doubt about the application of the treaty in time of war it was suggested that the parties

to the treaty would "never under any circumstances" take action contrary to the prohibition.⁴⁶ The view was expressed that the application of the convention should cover actions taken for purely defensive purposes.⁴⁷ It was pointed out that careful consideration should be given to the question whether the prohibition should be limited only to radiation effects produced by non-explosive means.⁴⁸ In the convention, it should be stated explicitly that the prohibition of the dissemination of radioactive material would cover actions for defensive purposes.⁴⁹ The use of radioactive barriers on one's own territory should be banned.⁵⁰

2.1 Definition of radiological weapons

It was proposed, for the purpose of the treaty, that the definition of "radiological weapons" should contain the following elements: any device, including any weapon or equipment, other than a nuclear explosive device, specifically designed to employ radioactive material by disseminating it; any radioactive material other than that produced by a nuclear explosive device, specifically designed for employment, by its dissemination; the destruction, damage or injury would be caused by means of the radiation produced by the decay of such material.⁵¹ The view was expressed that the definition should include also the so-called particle-beam weapons, which produce radiation in ways other than through radioactive decay.⁵² Others felt that particle-beam weapons should be dealt with separately in another context.⁵³ In order to eliminate any ambiguity as to the particular method of warfare, it was proposed to specify that dissemination occurs independently of nuclear explosions.⁵⁴ The concept of "nuclear explosive device" needs to be defined precisely.⁵⁵

2.2 Activities and obligations

With respect to other activities of each State Party to the Treaty which might be prohibited, a proposal covered the following categories: undertaking not to employ deliberately, by its dissemination, any radioactive material not defined as a radiological weapon, and not produced by a nuclear explosive device; undertaking not to assist, encourage, or induce any person, State, group of States or international organizations to engage in any of the activities prohibited by the treaty; undertaking to prevent loss of and to prohibit and prevent diversion of radioactive material that might be used in radiological weapons and any activities contrary to the provisions of the treaty in its territory or at any place under its jurisdiction or under its control.⁵⁶

It was suggested that the prohibition of the dissemination of radioactive material should cover actions for defensive purposes.⁵⁷ Military attacks or deliberate damaging in war of nuclear reactors or other nuclear-fuel-cycle facilities should be taken into account, and the prohibition should cover all facilities containing large amounts of radioactive substances.⁵⁸ A reference to the Convention on the physical protection of nuclear material should be considered.⁵⁹ The application of IAEA safeguards could be explored.⁶⁰

The Convention should provide guarantees against the diversion of radioactive material from unsafeguarded facilities in non-nuclear weapon States, as well as in nuclear-weapon States.⁶¹ The convention should contain categorical provisions regarding the obligations of all member States to promote nuclear disarmament, to prevent the threat of nuclear war and to preserve international peace and security.⁶²

2.3 Relationship to other treaties

It was proposed that nothing in the treaty should be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Treaty of Non-Proliferation of Nuclear Weapons, the Geneva Protocol of 17 June 1925, or any existing rules of international law governing armed conflict.⁶³ The mention of a particular treaty could create difficulties for certain delegations.⁶⁴

3. Peaceful uses

A proposal was made that the provisions of the treaty should not hinder the use of sources of radiation from radioactive decay for peaceful purposes and should be without prejudice to any generally recognized principles and applicable rules of international law concerning such use.⁶⁵ The wording of the provision should ensure explicitly the peaceful use of the radiation produced by radioactive decay; and the development and operation of peaceful nuclear programmes, especially of the developing countries.⁶⁶

4. Compliance and verification

With respect to the question of compliance and verification, it was proposed that in order to solve any problems which may arise in relation to the objectives of the treaty or its application, consultations and co-operation would be undertaken by the parties themselves and also through appropriate international procedures within the framework of

the United Nations and in accordance with its Charter. The services of appropriate international organizations, as well as of a consultative Committee of Experts are envisaged. It was also proposed that any State Party which has reasons to believe that any other State Party is acting in breach of obligations deriving from the treaty may lodge a complaint with the Security Council of the United Nations, which may initiate an investigation. It was further proposed that each State Party should undertake to co-operate in carrying out any investigation which the Security Council may initiate and to provide or support assistance to any Party which so requests, in accordance with the Charter of the United Nations, if the Security Council decides that such Party has been harmed or is likely to be harmed as a result of violation of the treaty.⁶⁷ Views were expressed that the complaint procedure involving the Security Council should be considered insufficient as long as the permanent members may exercise their right of veto in such matters.⁶⁸ The machinery for consultation and co-operation needed careful examination.⁶⁹ The procedure for convening the Consultative Committee of Experts should be more efficient, assuring more powers for the Depositary and for the Committee itself.⁷⁰ The procedures of consultation and co-operation need to be more specific and effective. The role and powers of the Consultative Committee and its activities should be regarded as a first step before the submission of a specific complaint to the Security Council.⁷¹ Doubts were expressed regarding the complaint procedures and the role of the Security Council, as inconsistent with the principles of equal obligations and with the principle that only parties to a treaty have the right to participate in the implementation of the treaty.⁷²

5. Other provisions

5.1 Amendments

It was suggested that amendments to the treaty might be proposed by any State Party through the Depositary. An amendment would enter into force after the deposit of documents of acceptance by a majority of State Parties. Thereafter - on the date of the deposit by the State Party of the acceptance document.⁷³

5.2 Duration and withdrawal

It was proposed that the treaty would be of unlimited duration. When the supreme interests of a State Party are jeopardized, it shall have the right to withdraw from the treaty after prior notification. Notice of such

withdrawal shall be given to all other Parties and to the Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.⁷⁶

5.3 Review Conferences

It was proposed that a review conference should be convened ten years after entry into force of the treaty, or earlier if requested by a majority of States Parties, with a view to assuring that the purposes of the preamble and the provisions of the treaty are being realized. Such review should take into account any new scientific and technological developments relevant to the treaty. Thereafter, a majority of the State Parties could obtain the convening of a conference with the same objective. The Depositary should solicit the views of all State Parties on the holding of a review conference if such a conference has not been convened during a certain period of time.⁷⁵ Five years after the entry into force of the treaty for the first review conference was considered a more appropriate time length.⁷⁶ Further review conferences could be held at longer intervals, depending on the need expressed by a majority of States or a number of States not constituting a majority, as may be agreed upon.⁷⁷ If no review conference had been convened within ten years following the conclusion of a previous review conference, the depositary should solicit the views of all States parties. If one third or ten of the States parties, whichever number is less, respond affirmatively, the depositary should convene the conference.⁷⁸

5.4 Adherence, ratification, entry into force, Depositary

It was proposed that the treaty should be open to all States for signature. Any State could accede to it at any time. The treaty should be subject to ratification by signatory States. Instruments of ratification and accession should be deposited with the Secretary-General of the United Nations. The treaty should enter into force upon the deposit of an agreed number of instruments of ratification.⁷⁹ It was also proposed that the treaty should enter into force upon the deposit of 25 instruments of ratification (including those of the nuclear-weapon States.)⁸⁰

5.5 Annex

It has been proposed that in an annex which would constitute an integral part of the treaty, the functions and rules of procedure of a Consultative Committee of Experts would be set out.⁸¹

List of References

Introduction

1. The United Nations and disarmament 1945-1970, United Nations publications, Sales No. 70.IX.1, p.28.
2. Resolution 2602 C (XXIV), on the initiative of Malta.
3. Official records of the Disarmament Commission, supplement for 1970, document DC/233, para.26; also working paper CCD/291 submitted by the Netherlands.
4. Official Records of the General Assembly, thirty-first session, Supplement No. 27 (A/31/27), Annex III, document CCD/514, submitted by USSR.
5. Ibid., First Committee (A/C.1/31/PV.37 and 41) statements by USA and Mexico.
6. For details, see the United Nations Yearbook, Vol. 3, 1978, Chapter XVII and XVIII; United Nations Publication Sales No.E.79.IX.3. Also resolutions A/32/84 A and B.
7. Official Records of the General Assembly, Tenth Special Session, Supplement No. 2 (A/S-10/2).
8. Identical proposals submitted respectively by the USSR (CD/31) and the USA (CD/32).
9. Resolution 34/87 A, conclusion of an international convention prohibiting the development, production, stockpiling and use of radiological weapons, contained also in document CD/55.

I. Statements of general character

10. United Kingdom, CD/PV.2, p.61; Italy, CD/PV.3, p.18; USA, CD/PV.33, p.11 and CD/PV.40, p.10; Belgium, CD/PV.76, p.18.
11. Mongolia, CD/PV.12, p.11; USSR, CD/PV.40, p.7; Hungary, CD/PV.40, p.18; German Democratic Republic, CD/PV.74, p.13; Romania CD/PV.76, p.10; Poland CD/PV.76, p.16; Egypt CD/PV.77, p.6; Pakistan CD/PV.77, p.13.
12. USSR, CD/PV.33, p.17; Canada, CD/PV.42, p.6; Egypt, CD/PV.77, p.6.

13. Australia, CD/PV.41, p.12; Italy, CD/PV.42, p.8
14. Mongolia, CD/PV.44, p.10; Sweden, CD/PV.63, p.12; Hungary, CD/PV.68, p.21; Egypt, CD/PV.77, p.7
15. Canada, CD/PV.74, p.9
16. Pakistan, CD/PV.77, p.15
17. Bulgaria, CD/PV.45, p.21
18. Sweden, CD/PV.63, p.12
19. Italy, CD/PV.74, p.19
20. Pakistan, CD/PV.77, p.13
21. Pakistan, CD/PV.77, p.16
22. Netherlands, CD/PV.76, p.9; Italy, CD/PV.74, p.19
23. Bulgaria CD/PV.46, p.33;
24. Japan, CD/PV.71, p.7
25. Mexico, CD/PV.74, p.20
26. Egypt, CD/PV.77, p.7; Pakistan, CD/PV.77, p.15
27. Federal Republic of Germany, CD/PV.41, p.18; Bulgaria, CD/PV.45, p.21; Australia, CD/PV.49, p.22
28. Egypt, CD/PV.77, p.9
29. Pakistan CD/PV.77, pp.13 and 16
30. Federal Republic of Germany, CD/PV.41, p.18
31. Canada, CD/PV.42, p.6
32. Canada, CD/PV.74, p.10
33. Italy, CD/PV.74, p.19
34. Pakistan, CD/PV.77, pp.15 and 16
35. Netherlands, CD/PV.76, p.9

36. USSR, CD/PV.40, p.9.
37. USA, CD/PV.40, p.13
38. Italy, CD/PV.74, p.19
39. Netherlands, CD/PV.76, p.7.

II. Specific proposals

40. Hungary, CD/40
41. Sweden, CD/PV.63, p.12; Egypt, CD/PV.77, p.7.
42. Belgium, CD/PV.76, p.19-20
43. Agreed joint USSR-United States proposal, CD/31, CD/32, para. I
44. USSR, CD/PV.40, p.9; USA, CD/PV.40, p.12
45. Sweden, CD/PV.63, p.13; Netherlands, CD/PV.76, p.8; Egypt, CD/PV.77, p.8.
46. Belgium, CD/PV.76, p.19.
47. Belgium, CD/PV.76, p.19
48. Pakistan, CD/PV.77, p.15
49. Sweden, CD/PV.63, p.12
50. Netherlands, CD/PV.76, p.8
51. Agreed joint USSR-United States proposal, CD/31, CD/32, paragraph II
52. Sweden, CD/PV.63, p.13; Mexico, CD/PV.74, pp.20-21; Egypt, CD/PV.77, p.8; Pakistan, CD/PV.77, p.15
53. Netherlands, CD/PV.76, p.8
54. Netherlands, CD/PV.76, p.7
55. Sweden, CD/PV.63, p.12
56. Agreed joint USSR-United States proposal, CD/31, CD/32, paras. III, IV and VI
57. Sweden, CD/PV.63, p.13
58. Sweden, CD/PV.63, p.13; Belgium, CD/PV.76, p.20

59. Sweden, CD/PV.63, p.14, Italy, CD/PV.74, p.19; Netherlands, CD/PV.76, p.9
60. Sweden, CD/PV.63, p.14
61. Pakistan, CD/PV.77, p.16
62. Pakistan, CD/PV.77, p.16
63. Agreed joint USSR-United States proposal, CD/31, CD/32, para. VII
64. Pakistan, CD/PV.77, p.16
65. Agreed joint USSR-United States proposal, CD/31, CD/32, para. V
66. Italy, CD/PV.74, p.19; Egypt, CD/PV.77, p.9; Pakistan, CD/PV.77, p.16
67. Agreed joint USSR-United States proposal CD/31, CD/32, para. VIII; Netherlands, CD/PV.76, p.9
68. Sweden, CD/PV.63, p.14
69. Italy, CD/PV.74, p.19
70. Belgium, CD/PV.76, p.20
71. Egypt, CD/PV.77, p.8
72. Egypt, CD/PV.77, p.8; Pakistan, CD/PV.77, p.15
73. Agreed joint USSR-United States proposal, CD/31, CD/32, para. IX
74. Agreed joint USSR-United States proposal, CD/31, CD/32, para. X
75. Agreed joint USSR-United States proposal, CD/31, CD/32, para. XI
76. Sweden, CD/PV.63, p.14; Netherlands, CD/PV.76, p.9; Egypt, CD/PV.77, p.9
77. Netherlands, CD/PV.76, p.9
78. German Democratic Republic, CD/42, para. 1
79. Agreed joint USSR-United States proposal, CD/31, CD/32, para. XII
80. German Democratic Republic, CD/42, para. II
81. Agreed joint USSR-United States Proposal, CD/31, CD/32, para. VIII and Annex.

UNION OF SOVIET SOCIALIST REPUBLICS

Draft decision of the Committee on Disarmament on the establishment of an ad hoc group of experts to prepare a draft comprehensive agreement and to consider the question of concluding special agreements on individual new types and systems of weapons of mass destruction

The Committee on Disarmament, taking into account the fact that the United Nations General Assembly urged Member States in several of its decisions to refrain from developing new types of weapons of mass destruction and new systems of such weapons, decides to establish under its auspices an ad hoc group of experts to prepare a draft comprehensive agreement and to consider the question of concluding special agreements on individual types of weapons of mass destruction and new systems of such weapons.

Experts appointed by any State member of the Committee on Disarmament may take part in the work of the ad hoc group. To enable the group to draw upon the knowledge and experience of other States, experts appointed by States not represented in the Committee on Disarmament may also take part in the ad hoc group on the invitation of the Committee on Disarmament.

The Group shall hold its first meeting in the week beginning 16 February 1981. The Committee on Disarmament suggests that the group should present its progress report to the Committee before the end of the first part of its 1981 session.

The Committee on Disarmament decides that the group shall elect its chairman. It further decides that the group should aim at consensus in its reports, and that in cases where consensus cannot be reached, each expert shall be entitled to state his own point of view in the reports.

The group should conduct its work on an informal basis preparing unofficial working papers and records where needed. The report to the Committee on Disarmament shall be prepared as an official document.

The Committee on Disarmament requests the Secretariat to arrange for the group to be given the necessary assistance and services.

AD HOC WORKING GROUP ESTABLISHED WITH A VIEW TO REACHING AGREEMENT
ON A CONVENTION PROHIBITING THE DEVELOPMENT, PRODUCTION,
STOCKPILING AND USE OF RADIOLOGICAL WEAPONS

Report to the Committee on Disarmament

I. INTRODUCTION

1. The Final Document of the Tenth Special Session of the General Assembly in its section III entitled "Programme of Action" contains the following paragraph:

"76. A convention should be concluded prohibiting the development, production, stockpiling and use of radiological weapons".

2. At its 1979 session the Committee on Disarmament noted with satisfaction the submission by the USSR and the United States of America of an agreed joint proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons (CD/31 and CD/32). Following a preliminary discussion, the Committee concluded that it would continue consideration of the agreed joint proposal as soon as possible at its next annual session.

3. At its thirty-fourth session the General Assembly of the United Nations adopted resolution 34/87 A entitled "Conclusion of an international convention prohibiting the development, production, stockpiling and use of radiological weapons", which operative paragraphs 1 and 2 read as follows:

"1. Welcomes the report of the Committee on Disarmament with regard to radiological weapons and, particularly, its stated intention to continue consideration of proposals for a convention banning these weapons at its next session;

2. Requests the Committee on Disarmament to proceed as soon as possible to achieve agreement, through negotiation, on the text of such a convention and to report to the General Assembly on the results achieved for consideration by the Assembly at its thirty-fifth session."

4. In considering item 5 of its 1980 agenda, entitled "New types of weapons of mass destruction and new systems of such weapons; radiological weapons", the Committee on Disarmament at its 69th plenary meeting held on 17 March 1980 adopted the following decision:

"The Committee on Disarmament decides to establish for the duration of its 1980 session an ad hoc working group of the Committee with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons.

* Reissued for technical reasons.

The ad hoc working group will report to the Committee on the progress of its work at any appropriate time and in any case before the conclusion of its 1980 session.

5. At its 30th meeting on 22 April the Committee appointed Ambassador Dr. Imre Konives of Hungary as Chairman of the Ad Hoc Working Group. Mr. D. Konstantinov, of the United Nations Centre for Disarmament, was appointed as Secretary of the Working Group.

II. SUMMARY OF THE PROCEEDINGS

6. In accordance with the agreement reached in the Committee the Ad Hoc Working Group held 16 meetings between 24 April and 1 August 1980.

7. Delegates of all member States of the Committee on Disarmament participated in the work of the Working Group. Experts from Czechoslovakia, Egypt, France, Romania, Indonesia, Sweden, USSR, United States and Yugoslavia provided additional information and gave explanations.

8. At its first meeting the Working Group considered organizational matters and agreed that it would start its substantive work on Monday, 16 June, providing, at the beginning, possibility for a short general exchange of views on radiological weapons. It was also agreed that each delegation would decide at which point the assistance of experts would be needed.

9. At its second meeting the Working Group agreed that the proceedings should encompass three phases:

- (a) to identify the main elements of the future treaty, bearing in mind the documents submitted so far and the statements made;
- (b) to negotiate on each of identified elements;
- (c) to draft the text of the convention.

10. At the request of the Working Group the Chairman submitted and the Group adopted at its third meeting a working paper containing the "Main elements in the negotiations of a treaty on the prohibition of radiological weapons", namely:

1. Preamble
2. Scope of the prohibition
3. Definition of radiological weapons
4. Activities and obligations
5. Relationship with other disarmament measures and agreements
6. Peaceful uses
7. Compliance and verification

8. Other provisions

9. Amendments

10. Duration and withdrawal

11. Review conference

12. Adherence, entry into force, depositary

13. Annexes

11. At the same meeting the Group adopted a proposal by the Chairman concerning the order which could serve as a guide in discussing the main elements at meetings of the Working Group, namely:

- Definition of radiological weapons
- Scope of the prohibition
- Activities and obligations
- Peaceful uses, Relationship to other treaties
- Compliance and verification
- The remaining "main elements" (other provisions, amendments, duration and withdrawal, review conference, adherence, entry into force, depositary)
- Preamble

It was further agreed that during each meeting the Working Group would tackle all proposals and considerations of States members of the Committee on Disarmament which were submitted prior to the day of the meeting or might be submitted and which refer to the main element to be discussed.

12. In the conduct of its work the Working Group had before it the following documents and working papers:

- (1) CD/31 "Letter dated 9 July 1979 addressed to the Chairman of the Committee on Disarmament from the Representative of the Union of Soviet Socialist Republics transmitting a document entitled "Agreed joint USSR-United States proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of Radiological Weapons."
- (2) CD/32 - Letter dated 9 July 1979 addressed to the Chairman of the Committee on Disarmament from the Representative of the United States of America transmitting a document entitled "Agreed joint United States-USSR proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons".

- (3) CD/40 - "Working paper on the draft preambular part of the Treaty on the Prohibition of the development, manufacture, stockpiling and use of radiological weapons", dated 23 July 1979, submitted by the delegation of Hungary;
- (4) CD/42 - "Working paper on draft paragraph XI, subparagraph 3, and paragraph XII, subparagraph 3 of the Treaty on the Prohibition of the Development, Manufacture, Stockpiling and Use of Radiological Weapons", dated 25 July 1979, submitted by the delegation of the German Democratic Republic.
- (5) CD/RW/WP.3 - Canada: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- (6) CD/RW/WP.4 - Federal Republic of Germany: Proposal for a new Article V.
- (7) CD/RW/WP.5 - Federal Republic of Germany: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- (8) CD/RW/WP.6 - Sweden: Proposals for Articles I, II and III, of a Treaty prohibiting radiological warfare including the development, production, stockpiling and use of radiological weapons.
- (9) CD/RW/WP.7 - Italy: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons (Doc. CD/31 and CD/32).
- (10) CD/RW/WP.8 - France: Proposed amendments to the agreed joint USSR-USA proposal on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- (11) CD/RW/WP.9 - Pakistan: Proposals for a revised Article V and a new article after Article V.
- (12) CD/RW/WP.10 - Yugoslavia: Proposal for an article of the Treaty related to the definition of radiological weapons.
- (13) CD/RW/WP.11 - Argentina: Observations on a Treaty prohibiting radiological weapons.
- (14) CD/RW/WP.12 - Venezuela: Proposals for a title and for substitution of the Articles I, II and III of the "agreed joint USSR-USA proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons".
- (15) CD/RW/WP.14 - Sweden: Proposal for a study on IAEA safeguards.

In addition to these documents the Working Group took into account the views expressed by many delegations on the question of the prohibition of radiological weapons in the Committee, as well as during the last session of the General Assembly. Many delegations have also commented upon the documents referred to previously, making suggestions and also asking questions in connexion with them.

At the request of the Group the Secretariat compiled in twelve Conference Room Papers and their addenda all proposals and suggestions mentioned above, as well as additional proposals and suggestions made by the delegations of Australia, Belgium, Bulgaria, Egypt, the Federal Republic of Germany, India, Mexico, Morocco, the Netherlands, Romania and Pakistan.

A list of documents, working papers and conference room papers was prepared by the Secretariat (CD/RW/WP/13/Rev.1).

13. At the request of the Working Group the Secretariat prepared a "Compilation of relevant documents on radiological weapons covering the period 1979-1980" (CD/104).

14. Also at the request of the Working Group the Secretariat prepared a tabulation of the texts of all proposals concerning the provisions of a treaty on radiological weapons (CD/RW/WP.15)..

III. SUMMARY OF THE DISCUSSION

15. In carrying out its mandate, the ad hoc working group held extensive discussions on the main elements of a treaty prohibiting radiological weapons. The discussion revealed that, while all delegations were ready to negotiate a treaty on radiological weapons, different concepts existed with regard to approach, the priority, the role and scope of the treaty, the definition of radiological weapons and the procedures of verifying compliance, as well as in some other areas.

16. With respect to the approach, the role and the scope of the treaty, the view was expressed on the one hand that its importance consisted of preventing the emergence of a particular type of weapon of mass destruction not yet in existence but which could be developed and produced. Consequently, the treaty should not be burdened with additional problems. Furthermore, the treaty would represent another contribution to the limitation of the qualitative arms race and progress towards the objective of using scientific and technological achievements solely for peaceful purposes. The joint USSR-United States proposal was regarded as a

suitable basis for reaching agreement on a treaty prohibiting the development, production, stockpiling and use of radiological weapons. On the other hand, in assessing the joint proposal, the view was expressed that the text was too restrictive and it should be broadened so as to include the prohibition of all kinds of weapons that used radiation. In this respect, it was stressed that any treaty prohibiting the use of radiological weapons should contain explicit provisions concerning the urgent priority of nuclear disarmament.

- The view was held that particle beam weapons should also be covered by a ban on radiological weapons. However, others pointed out that particle beam weapons are of a different nature and could not be included within the scope of the proposed convention.

- The question of introducing the notion of radiological warfare was raised. The view was expressed that the term radiological warfare meant dissemination of radioactive material, other than through the explosion of a nuclear explosive device, in order to cause destruction, damage or injury by means of the radiation produced by the decay of such material. In this connexion the view was expressed that the introduction of such a notion would lead to confusion in the field of international law related to armed conflicts, and that the joint USSR-United States proposal was aimed at a preventive prohibition of radiological weapons as well as the prohibition of radiological warfare, i.e. military actions with the use of such weapons.

- The view was expressed that the treaty should explicitly prohibit deliberate attacks on nuclear reactors or any other nuclear fuel facilities. On the other hand, the view was expressed that a similar prohibition was already provided for in Article 56 of the I Additional Protocol of 1977 to the Geneva Conventions of 1949, on the protection of victims of international armed conflicts.

- It was stated that, as radiological weapons did not yet exist, and that since it did not seem foreseeable that they could exist as a specific type of weapon, the work of the Committee on Disarmament should be oriented towards the conclusion of a convention on the prohibition of the use of radioactive material for hostile purposes. This opinion was contested, and the view was expressed that such an approach would limit the scope of a future treaty and that the joint proposal was more comprehensive.

- The view was expressed that more explicit wording should be used with respect to the prohibition of radiological weapons in wartime, for defence purposes, as well as to the use of radioactive barriers and permissible levels of radioactivity

17. With respect to the definition, the view was expressed that the joint proposal was insufficient. The view was expressed that the definition of radiological weapons should not be so drafted as to imply that the use of nuclear weapons would have a legal justification that certain delegations did not accept. The definition of radiological weapons should, therefore, be in terms of the specific attributes of such potential weapons and not in terms of the exclusion of nuclear explosive devices. On the other hand, the view was expressed that the definition of radiological weapons contained in the joint proposal had a sound scientific basis. At the same time the view was expressed that it would be useful to continue the search for a formulation that would define radiological weapons in strictly positive terms, without resorting to exclusion clauses.

18. Questions were raised regarding the manner in which the fulfilment of the obligations contained in the joint USSR-United States elements not to divert radioactive material for use in radiological warfare would be monitored, especially with regard to radioactive material in nuclear facilities outside international safeguards. It was proposed in this context that an overview study of the possibilities of establishing and administering international safeguards should be performed by the Secretariat. Others expressed their disagreement with this proposal.

19. It was generally accepted that the provisions of the treaty should not hinder the use of radiation from radioactive decay for peaceful purposes. Views were expressed concerning the need for more explicit provisions for the right of the parties to exchange information as well as to develop and acquire nuclear technology for peaceful purposes.

20. In the course of consideration of the procedures of verifying compliance, the view was expressed that the related provisions of the joint proposal corresponded to the subject and scope of prohibition and met the requirements of this particular treaty. Some held the view that the procedure of lodging complaints envisaged in the joint USSR-United States proposal could be regarded as a satisfactory one. On the other hand, reservations were made with regard to the procedure of verifying compliance as proposed, in particular with respect to the role of the Security Council of the United Nations, as well as the proposed mandate for the Consultative Committee of Experts. The view was also expressed that greater authority, including with respect to on-site inspection, should be granted to the Consultative Committee of Experts as an independent body. The view was also expressed that the ultimate authority in the matter of compliance should be vested not in the Security Council, but in the United Nations General Assembly or in a Governing Board consisting of all the States Parties to the Treaty.

21. The working group also briefly considered other elements of a treaty, such as the preamble and the final clauses.

IV. CONCLUSION

22. There was wide recognition of the need to reach agreement on the text of a treaty prohibiting radiological weapons. However, various differences of approach have yet to be resolved.

23. In the light of the progress made, the Ad Hoc Working Group recommends that the Committee on Disarmament set up at the beginning of its 1981 session a further Ad Hoc Working Group under an appropriate mandate to be determined at that time, to continue negotiations on the elaboration of a treaty prohibiting radiological weapons.

CD/151
13 February 1981
Original: ENGLISH

Decision adopted by the Committee on ad hoc working groups
at its 105th plenary meeting on 12 February 1981

The Committee decides that the ad hoc working group on the comprehensive programme of disarmament established on 17 March 1980 shall resume its work forthwith, in accordance with the conclusion reached by the Committee at its 100th plenary meeting (paragraph 68.16 of CD/139).

The Committee further decides to re-establish, for the duration of its 1981 session, the ad hoc working groups on effective international arrangements to assure non-nuclear weapon States against the use or threat of use of nuclear weapons, chemical weapons and radiological weapons, which were established on 17 March for its 1980 session, so that they may continue their work on the basis of their former mandates.

It is understood that the Committee will, as soon as possible, review the mandates of the three ad hoc working groups with a view to adapting, as appropriate, their mandates to advance the progress of the process of negotiations towards the objective of concrete disarmament measures.

It is also understood that the decision taken by the Committee in no way precludes the urgent consideration of the proposals submitted for the establishment of other ad hoc working groups on items 1 and 2 of the Committee's agenda, as well as the consideration of the establishment of other subsidiary bodies which have been or may be proposed.

The ad hoc working groups will report to the Committee on the progress of their work at any appropriate time and in any case before the conclusion of its 1981 session.

HUNGARY

Working paper

Proposal for informal meetings of the Committee on
Disarmament with the participation of qualified
governmental experts on the prohibition of development
and manufacture of new types of weapons of mass
destruction and new systems of such weapons

1. The Committee on Disarmament has had for long on its agenda the question of the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons. But as yet there has been no serious negotiations on this important question in the Committee on Disarmament which reflects the different views as to how to approach this complicated matter.
2. The Hungarian delegation remains convinced that the most effective method of handling this question would be the setting up of an ad hoc group of qualified governmental experts.

Taking into account however the differing views, the various proposals and ideas put forward to this effect and the recognized need to continue the consideration of the issue of setting up a group of experts in an organized manner, the delegation of Hungary proposes as a first step the holding of informal meetings of the Committee on Disarmament with the participation of qualified governmental experts preferably during the second part of its 1981 session. The length of time put aside for the meetings and the exact time of holding them could be scheduled in accordance with the programme of work of the Committee to be elaborated for the second part of this session.

3. Experts participating in the informal meetings could address themselves to the major areas of this broad subject such as:

(a) review of questions related to the definition of new types of weapons of mass destruction as well as the criteria on the basis of which particular weapons fall under certain categories of NWMD on the basis of the formula of 1948 taking also into account the advance reached in the field of science and technology,

(b) review of the trends of the development of technology especially in the military field, identifying particular areas where the progress may contemplate emergence of NWMD,

(c) recommendations to the Committee on Disarmament as to the methods of further work and negotiations, including the setting up of an ad hoc group of experts,

(d) other relevant aspects, experts may deem necessary to bring to the consideration of the Committee.

4. Experts of non-member States are welcome to participate.

5. The Committee on the basis of the results of the discussion on the subjects above could consider the elaboration of recommendations as to the methods of further work and negotiations on agreements prohibiting the development and manufacture of new types of weapons of mass destruction and, in particular, concerning a possible mandate of an ad hoc group of governmental experts on this problem.

6. The delegation of Hungary is convinced that the informal meeting on this matter of the CD would be a step forward in discharging its responsibilities assigned to it in connection with the prohibition of the development and manufacture of the new types of weapons of mass destruction and new systems of such weapons.

COMMITTEE ON DISARMAMENT

CD/218
14 August 1981
Original: ENGLISH

REPORT OF THE AD HOC WORKING GROUP ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. At its 105th plenary meeting on 12 February 1981, the Committee on Disarmament adopted the following decision relating, inter alia, to item 5 of its agenda:

"The Committee further decides to re-establish, for the duration of its 1981 session, the ad hoc Working Groups on effective international arrangements to assure non-nuclear weapon States against the use or threat of use of nuclear weapons, chemical weapons, and radiological weapons, which were established on 17 March for its 1980 session, so that they may continue their work on the basis of their former mandates."

In addition, the Committee on Disarmament decided that the ad hoc Working Groups would report to the Committee on the progress of its work at any appropriate time and in any case before the conclusion of its 1981 session (document CD/151, paras. 2, 5).

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At its 107th plenary meeting on 17 February 1981, the Committee on Disarmament appointed Ambassador Dr. Imre Kóniyes (Hungary) as Chairman of the Ad Hoc Working Group. Mr. Guennady Efimov of the United Nations Centre for Disarmament was appointed as Secretary of the Working Group.

3. The Ad Hoc Working Group held 21 meetings between 20 February to 23 April 1981 and between 18 June to 14 August 1981.

4. Delegates of all member States of the Committee on Disarmament participated in the work of the Ad Hoc Working Group.

5. At the 127th plenary meeting of the Committee on Disarmament, on 24 April 1981, the Chairman submitted a progress report on the work done by the Ad Hoc Working Group (CD/PV.127).

6. At its 129th and 132nd plenary meetings on 16 June and 24 June 1981 respectively, the Committee on Disarmament decided to invite, at their request, the representatives of the following States not members of the Committee to participate in the meetings of the Ad Hoc Working Group: Austria, Spain.

7. In fulfilling its mandate, the Ad Hoc Working Group took into consideration paragraph 76 of the Final Document of the First Special Session of the United Nations General Assembly devoted to disarmament which stated that a convention should be concluded prohibiting the development, production, stockpiling and use of radiological weapons. The Working Group also took into consideration the relevant recommendations of the United Nations Disarmament Commission, in particular those adopted in connection with the Second Disarmament Decade in 1980. The Working Group further took into account resolution 35/156G of the General Assembly entitled "Conclusion of an international convention prohibiting the development, production, stockpiling and use of radiological weapons", in which operative paragraph 1 reads as follows:

"1. Calls upon the Committee on Disarmament to continue negotiations with a view to elaborating a treaty prohibiting the development, production, stockpiling and use of radiological weapons and to report on the results to the General Assembly at its thirty-sixth session."

8. In the conduct of its work the Ad Hoc Working Group had before it the following documents and working papers:

- CD/31 - Letter dated 9 July 1979 addressed to the Chairman of the Committee on Disarmament from the Representative of the Union of Soviet Socialist Republics transmitting a document entitled 'Agreed joint USSR-United States proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of Radiological Weapons'.
- CD/32 - Letter dated 9 July 1979 addressed to the Chairman of the Committee on Disarmament from the Representative of the United States of America transmitting a document entitled 'Agreed joint United States-USSR proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons'.
- CD/40 - Working paper on the draft preambular part of the Treaty on the Prohibition of the development, manufacture, stockpiling and use of radiological weapons', dated 23 July 1979, submitted by the delegation of Hungary.
- CD/42 - 'Working paper on draft paragraph XI, subparagraph 3, and paragraph XII, subparagraph 3 of the Treaty on the Prohibition of the Development, Manufacture, Stockpiling and Use of Radiological Weapons', dated 25 July 1979, submitted by the delegation of the German Democratic Republic.

- CD/RW/WP.3 - Canada: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- CD/RW/WP.4 - Federal Republic of Germany: Proposal for a new Article V.
- CD/RW/WP.5 - Federal Republic of Germany: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- CD/RW/WP.6 - Sweden: Proposals for Articles I, II and III, or a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- CD/RW/WP.7 - Italy: Comments on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons (Doc. CD/31 and CD/32).
- CD/RW/WP.8 - France: Proposed amendments to the agreed joint USSR-United States proposal on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
- CD/RW/WP.9 - Pakistan: Proposals for a revised Article V and a new article after Article V.
- CD/RW/WP.10 - Yugoslavia: Proposal for an article of the Treaty related to the definition of radiological weapons.
- CD/RW/WP.11 - Argentina: Observations on a Treaty prohibiting radiological weapons.
- CD/RW/WP.12 - Venezuela: Proposals for a title and for substitution of the Articles I, II and III of the 'agreed joint USSR-United States proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons'.
- CD/RW/WP.14 - Sweden: Proposal for a study on IAEA safeguards.
- CD/RW/WP.15 - Tabulation of proposals submitted to the Ad Hoc Working Group on Radiological Weapons on a treaty prohibiting radiological weapons (prepared by the Secretariat).
- CD/RW/WP.15/Add.1/Rev.1 - India: Proposals for amendments of Article I, II, III, V and VII of the elements of the proposed Draft Treaty on the prohibition of Radiological Weapons.
- CD/RW/WP.15/Add.2 - Indonesia: Statement delivered by the delegation of Indonesia at the fourth meeting of the Ad Hoc Working Group on Radiological Weapons held on 13 March 1981.

- CD/RW/WP.15/Add.2/Supp.1 - Indonesia: Comment on the agreed joint USSR-United States CD/31-CD/32 especially paragraph 3 Article VIII concerning compliance and verification and on the French proposal contained in CD/RW/WP.8.
- CD/RW/WP.15/Add.3 - Yugoslavia: Proposal for amendments to Article II of the elements of the proposed Draft Treaty on the Prohibition of Radiological Weapons.
- CD/RW/WP.16/Rev.1 - Report to the Committee on Disarmament.
- CD/RW/WP.17 - The Chairman's brief delivered at the First meeting of the Ad Hoc Working Group on Radiological Weapons held on 20 February 1981.
- CD/RW/WP.18 - The Chairman's Working Paper containing alternative texts of Articles on definition and scope of prohibition of a future treaty.
- CD/RW/WP.18/Add.1 - The Chairman's working paper containing alternative texts of Articles on activities and obligations and peaceful uses.
- CD/RW/WP.18/Add.2 - The Chairman's Working Paper containing alternative texts of Articles on relationship with other Disarmament measures and agreements and compliance and verification.
- CD/RW/WP.18/Add.2/Supp.1 - The Chairman's Working Paper containing alternative text for Annex.
- CD/RW/WP.18/Add.3 - The Chairman's Working Paper containing alternative texts of Articles on Amendments, Duration and Withdrawal, Review Conferences, Adherence, Entry into Force, Depositary.
- CD/RW/WP.19 - Sweden: Memorandum on certain aspects of a convention prohibiting radiological warfare.
- CD/RW/WP.20 - The Chairman's Working Paper containing consolidated text based on proposals submitted by the Chairman.
- CD/RW/WP.20/Add.1 - Sweden: Proposal for Article VI of the consolidated text by the Chairman.
- CD/RW/WP.20/Add.1/Supp.1 - Morocco: Proposal for Article VI of the consolidated text by the Chairman.
- CD/RW/WP.20/Add.2 - Japan: Proposed amendment to Article V of CD/RW/WP.20.
- CD/RW/WP.20/Add.3 - Federal Republic of Germany: Proposal for Article VII and Annex of the consolidated text by the Chairman.
- CD/RW/WP.20/Add.4 - Sweden: Proposal for Article VIII of the consolidated text by the Chairman.
- CD/RW/WP.20/Add.5 - Venezuela: Proposed amendment to Article IX of document CD/RW/WP.20.

- CD/RW/WP.20/Add.6 - Morocco: Proposed amendment to Article VII of document CD/RW/WP.20.
- CD/RW/WP.20/Add.7 - The Chairman's Working Paper on definition and scope of prohibition.
- CD/RW/WP.20/Add.8 - The Chairman's Working Paper on peaceful uses.
- CD/RW/WP.21 - The Chairman's Working Paper containing time-table for the work of the Working Group during the Second part of the CD 1981 session.
- CD/RW/WP.22 - Australia: Working paper on Scope and Definition of the future Treaty on Radiological Weapons.
- CD/RW/WP.23 - Working Paper of the Group of 21 on certain elements of the Convention on the Prohibition of Radiological Weapons.
- CD/RW/WP.24 - Draft Report of the Ad Hoc Working Group on Radiological Weapons.
- CD/RW/WP.24/Rev.1 - Draft Report of the Ad Hoc Working Group on Radiological Weapons.

9. In addition to these documents, the Working Group took into consideration the views expressed by delegations on the question of the prohibition of radiological weapons in the Committee on Disarmament as well as during the thirty-fourth and thirty-fifth sessions of the General Assembly.

10. At the request of the Group, the Secretariat compiled in 15 conference room papers and their addenda proposals and suggestions made by Australia, Belgium, Bulgaria, Canada, Egypt, France, German Democratic Republic, Germany, Federal Republic of, Hungary, India, Italy, Mexico, Morocco, Netherlands, Pakistan, Romania, Sweden, Union of Soviet Socialist Republics, United States of America, Venezuela and Yugoslavia. A list of documents, working papers and conference room papers was also prepared by the Secretariat (CD/RW/WP.13/Rev.2).

11. At the request of one delegation the Ad Hoc Working Group agreed that it would benefit the work of the Group if, in conformity with Article 41 of the rules of procedure of the Committee on Disarmament, the Director-General of the IAEA could be invited to provide information on the possible relationship between a draft convention prohibiting the development, production, stockpiling and use of radiological weapons and the Vienna Convention on the Physical Protection of Nuclear Material as well as the guidelines for physical protection of nuclear material. Consequently the Chairman of the Ad Hoc Working Group wrote a letter to the Chairman of the Committee on Disarmament asking him to initiate consultations with the Committee on this request. Some delegations expressed their reservations to this proposal. Some delegations stated that the information should be technical and in the nature of providing relevant facts to delegations who may require them. Some delegations stated that it should

have no bearing on the process of negotiation on the elaboration of a treaty prohibiting the development, production, stockpiling and use of radiological weapons within the Ad Hoc Working Group.

III. SUMMARY OF THE DISCUSSION

12. In fulfilling its mandate the Ad Hoc Working Group considered the main elements of a treaty prohibiting radiological weapons on the basis of the Chairman's consolidated text and other documents and proposals submitted with a view to elaborating draft provisions for the future treaty. The activities of the Ad Hoc Working Group showed that while further efforts were made to narrow down the existing differences, divergences still exist, particularly on the scope of prohibition, the definition of radiological weapons, the procedure for verifying compliance, peaceful uses and the relationship of the proposed treaty with other international agreements and other measures in the field of disarmament including nuclear disarmament.

13. In connection with the scope of the treaty, several specific suggestions were put forward. Some delegations stated that the development of specific radiological weapons as defined in the Chairman's consolidated text and the joint USSR/United States proposal was a very remote possibility. They recalled that these weapons did not exist and in their view they could hardly become practical weapons of mass destruction. They considered however that there existed a very real risk of mass destruction from dissemination of radioactive substances through attacks on nuclear facilities, a possibility which was not adequately covered by existing international agreements. Therefore these delegations believed that the treaty should contain a provision for an undertaking not to attack nuclear facilities or to deliberately damage such facilities and that the treaty on radiological weapons would be the appropriate legal framework for elaboration of such an international legal norm. They considered that such a provision should not be seen as an obstacle to the conclusion of the treaty.

The view was also expressed that as radiological weapons did not exist and their existence as a specific type of weapon could not be foreseen the work of the Committee on Disarmament in this field should be oriented towards the prohibition of radiological warfare and all use of radiation produced by radioactive materials to wage radiological warfare.

Other delegations considered that the possibility of the emergence of radiological weapons in the future should not be excluded. These delegations believed that the possibility of the development of radiological weapons and the consequent threat of their use should be dealt with now as a matter of foresight

before such weapons come into existence. These delegations held the view that the scope of the prohibition as defined in the joint USSR/United States proposal and in the Chairman's consolidated text fully corresponds to the purpose of the treaty to prohibit the development, production and use of radiological weapons. In their view an attempt to deal in the same negotiations with the prohibition of radiological weapons and with the protection of nuclear facilities would lead to confusion and make elaboration of any agreements on both matters practically impossible. They believed that provisions concerning this matter were already covered by the Geneva Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), 1977, and that any additional measures to protect nuclear facilities should be considered within the framework of international humanitarian law applicable in armed conflict.

A view was expressed that there exists a very real risk of mass destruction from dissemination of radioactive substances through attacks on nuclear facilities. However, reservations were expressed as to whether a treaty prohibiting radiological weapons would be the appropriate instrument to deal with this problem particularly in view of the complexities involved.

Some delegations also expressed the view that as a compromise the idea of holding separate negotiations on this question should be reflected in the text of the treaty or in a separate statement.

Some delegations stressed that the future treaty on the prohibition of radiological weapons should contain an explicit commitment to pursue urgently the goal of the cessation of the nuclear arms race and the achievement of nuclear disarmament. They stated that the treaty should be looked upon as a positive step in the process of future negotiations aimed at banning all weapons of mass destruction.

14. There was a general agreement that the scope of the treaty should, inter alia, cover a prohibition on the transfer of radiological weapons.

15. As regards the definition, some delegations continued to maintain the position according to which radiological weapons could be defined with an exclusion clause concerning nuclear weapons. On the other hand, other delegations maintained the view that definition of radiological weapons should not contain such an exclusion clause because they thought that it would legitimize nuclear weapons. Some delegations did not agree with such interpretation of an exclusion clause. The Chairman submitted a new proposal for the definition.

16. With regard to peaceful uses, it was stated by some delegations that the treaty on radiological weapons should recognize the inalienable rights of all States to develop and apply their programmes for peaceful use of radioactive materials and sources of radiation, including nuclear energy and right of free

access and acquisition of related materials, equipment, information and technology. The view was expressed by these delegations that all States should undertake to contribute fully to the strengthening of international co-operation on peaceful uses of radioactive materials and sources of radiation including exchange and transfer of technology, equipment, materials, scientific information and know-how, taking into account the particular needs of developing countries for their economic and social development. Some delegations stated that a new provision should be included on promotion of international co-operation for the development of protective measures against harmful effects of radiation for the benefit of all countries, especially in providing assistance in this field to developing countries. On the other hand, the view was expressed by some delegations that the provisions on peaceful uses in the treaty should not be too comprehensive or detailed, taking into account the main purpose of the treaty and in any event should not run counter to the goal of preventing the proliferation of nuclear weapons and to the commitments of States assumed under respective international agreements in this field. These delegations held that, under international law the provisions of a treaty can only apply to States parties to the given treaty. The Chairman submitted a new proposal on questions related to peaceful uses.

17. In considering the procedures of verifying compliance it was maintained by some delegations that the procedures provided in the Chairman's consolidated text to solve problems which may arise with regard to the objectives and application of the future treaty correspond to the subject and scope of the prohibition of radiological weapons and could be regarded as relevant to the purpose of the future treaty. Some delegations maintained that the Security Council was the most suitable organ to take up the question when a party to the treaty considered that there had been a breach of obligations deriving from the provisions of the treaty, considering that such a breach may constitute a threat to international peace and security.

Other delegations disagreed with these views and stated that the procedure to be devised for lodging of complaints under the treaty should not specifically refer to the United Nations Security Council. Some delegations believed that complaints should instead be lodged with the General Assembly.

The view was expressed that the role of the Consultative Committee of Experts should be strengthened so as to include, inter alia, provisions for on-site inspections and that all States Parties should undertake to co-operate fully with

the Consultative Committee of Experts with a view to facilitating the execution of its task. It was also suggested that if agreement cannot be reached in that Committee a report should be submitted containing all different opinions and the reasons given.

18. Some progress was made in the ad hoc Working Group in finding formulations for the provisions relating to activities and obligations and relationship with other disarmament agreements (Articles IV and VI of the Chairman's consolidated text) but differences still exist regarding the reference to "international arrangements" in Article IV and in connection with a proposal to refer to "existing rules of international law" in Article VI of the Chairman's consolidated text.

19. With respect to the procedure for submission of amendments to the treaty, the view was maintained that the Committee on Disarmament should be given the task of studying proposed amendments. On the other hand, some delegations believed that only the parties to the treaty should be entitled to participate in the procedure for amendments. An additional provision was suggested according to which, if requested to do so by one-third or more of the parties to the treaty, the depositary should convene a conference to which all the parties would be invited to consider amendment to the treaty.

20. In connection with the clause on duration and withdrawal, while it was generally accepted that the treaty should be of unlimited duration, some reservations were expressed concerning the wording of the provision on withdrawal as contained in Article IX of the Chairman's consolidated text. In this context an alternative formulation was proposed.

21. Some delegations suggested that review conferences should be convened at five year intervals, while others preferred 10 year intervals.

22. Some delegations maintained that the treaty should enter into force upon the deposit of the instrument of ratification by 25 governments (including the nuclear weapon States). Other delegations suggested that the number of such ratifications should be reduced. Some delegations expressed the view that the requirement of ratification by the nuclear weapon States should be deleted.

IV. CONCLUSION

23. During the current session, the Ad Hoc Working Group was able to make some progress towards the elaboration of a treaty banning radiological weapons.

Nevertheless, considerable work remains to be done and some important and complex issues need to be resolved. In response to the desire that the elaboration of such a treaty be concluded before the second special session of the General Assembly devoted to disarmament, the Ad Hoc Working Group agreed to recommend to the Committee on Disarmament that it consider whether the Group should resume its work on 18 January 1982. The Ad Hoc Working Group also recommends that the Committee on Disarmament set up at the beginning of its 1982 session an Ad Hoc Working Group under an appropriate mandate, to be determined at that time, to continue negotiations on the elaboration of a treaty prohibiting radiological weapons.

COMMITTEE ON DISARMAMENT

CD/243
12 February 1982
ENGLISH
Original: ENGLISH

Decision Adopted by the Committee on Disarmament on
ad hoc working groups at its 126th plenary meeting
on 12 February 1982

The Committee decides to re-establish, for the duration of its 1982 session, the ad hoc working groups on effective international arrangements to assure non-nuclear weapon States against the use or threat of use of nuclear weapons, and radiological weapons, which were established on 17 March for its 1980 session, so that they may continue their work on the basis of their former mandates.

In discharging its responsibility for the negotiation and elaboration, as a matter of high priority, of a multilateral convention on the complete and effective prohibition of the development, production and stockpiling of chemical weapons and on their destruction, the Committee on Disarmament decides to establish, for the duration of its 1982 session, an ad hoc working group of the Committee to elaborate such a convention, taking into account all existing proposals and future initiatives, with the view to enabling the Committee to achieve agreement at the earliest date.

The ad hoc working groups will report to the Committee on the progress of their work before the conclusion of the first part of its 1982 session, in view of the forthcoming second special session of the General Assembly devoted to disarmament. They will also report to the Committee before the conclusion of the second part of its 1982 session.

HUNGARY

Working Paper

PROHIBITION OF THE DEVELOPMENT AND MANUFACTURE OF NEW TYPES OF
WEAPONS OF MASS DESTRUCTION AND NEW SYSTEMS OF SUCH WEAPONS

1. The Committee on Disarmament has been dealing with the question of the prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons ever since 1976, following the submission of documents CCD/511 and CCD/514. A substantive summary of the discussions and exchanges of views is contained in document CD/35 of 10 July 1979. The proceedings revealed important differences concerning the basic approach as to how to prevent effectively the emergence of new types of weapons of mass destruction, and the organizational aspects of handling the issue.

The analysis of the proceedings, however, clearly indicates that even the differing positions agree on the necessity to take appropriate steps in the Committee on Disarmament, leading to the effective prevention of the emergence of NWMD, and to find the appropriate framework to reach that aim.

2. With a view to promoting the attainment of this aim, the Hungarian Delegation submitted a working paper (CD/174) on 7 April 1981, and proposed the holding of informal meetings of the Committee with the participation of qualified governmental experts. The informal meetings took place in July 1981. This fact has been noted "with satisfaction" in resolution 36/89 by the United Nations General Assembly, expressing also the conviction that "all ways and means should be utilized to prevent the development and manufacture of new types of weapons of mass destruction and new systems of such weapons".

3. Requesting the Committee on Disarmament "to intensify negotiations" on this item resolution 36/89 also "calls upon the States permanent members of the Security Council, as well as upon other militarily significant States, to make declarations, identical in substance, concerning the refusal to create new types of weapons of mass destruction and new systems of such weapons, as a first step towards the conclusion of a comprehensive agreement on the subject", which "would be approved thereafter by a decision of the Security Council".

4. Following the lines suggested in resolution 36/89, and taking into account that similar ideas had been expressed by several delegations of the Committee to the same effect, it seems feasible to give serious consideration to appropriate formulations, by which all States, especially the permanent members of the Security Council and other militarily significant States, would make solemn declarations, identical in substance, condemning any future efforts to develop, manufacture and deploy new types of weapons of mass destruction and new systems of such weapons.

5. On the basis of the successful experience of the 1981 session, the Hungarian Delegation proposes to hold informal meetings of the Committee on Disarmament with the assistance of qualified governmental experts, to be provided by interested delegations, during the second part of its 1982 session. The exact timing of two or three such meetings could be agreed upon when appropriate. The participation of non-member States, including that of their experts, is welcome.
6. In addition to the substantive consideration of the declarations as proposed in paragraph 4, delegations and experts could also discuss the possible tasks that an ad hoc group of qualified governmental experts could be entrusted with, as well as alternative ways and means of keeping under continuing review the question of the prohibition of NWD, including the possible setting up of the proposed ad hoc group of qualified governmental experts. Subjects for discussion proposed in working paper CD/174, might still be relevant.

The Committee on Disarmament could record in an appropriate manner the findings and conclusions of such meetings, and submit them to the United Nations General Assembly as requested in resolution 36/89, as an annex to the report which the Committee on Disarmament will prepare for its thirty-seventh session.

SPECIAL REPORT TO THE COMMITTEE ON DISARMAMENT IN VIEW OF
THE SECOND SPECIAL SESSION DEVOTED TO DISARMAMENT

Ad Hoc Working Group on Radiological Weapons

I. INTRODUCTION ^{B/}

1. Taking into consideration paragraph 76 of the final document of the First Special Session of the General Assembly devoted to Disarmament, which stated that a convention should be concluded prohibiting the development, production, stockpiling and use of radiological weapons, the Committee on Disarmament considered the question of concluding a treaty on radiological weapons in its 1979 session. During this session, the USSR and the United States submitted their joint USSR/United States proposal on major elements of the treaty (CD/31 and CD/32). Other proposals were also submitted.

2. Bearing in mind General Assembly resolution 34/67 A entitled "Conclusion of an international convention prohibiting the development, production, stockpiling and use of radiological weapons", the Committee on Disarmament at its 69th Plenary Meeting held on 17 March 1980 adopted the decision reading, inter alia,

"The Committee on Disarmament decided to establish for the duration of its 1980 session an ad hoc working group of the Committee with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons."

3. The Working Group was re-established by the Committee in 1981 at its 105th Plenary Meeting on 12 February 1981 to continue its work on the basis of its former mandate.

4. During the 1980/1981 sessions of the Committee on Disarmament, the Working Group under the Chairmanship of Ambassador Dr. Imre Kóniyes (Hungary) held further discussions on the main elements of a treaty prohibiting radiological weapons on the basis of the Chairman's Consolidated Text (CD/RW/MP.20) and other documents and proposals submitted with a view to elaborating the draft provisions for the treaty on radiological weapons (CD/133 and CD/220).

5. The activities of the Ad Hoc Working Group during that period showed that, while further efforts were made to narrow down the existing difficulties, divergencies still existed, particularly on the scope of the prohibition, the definition of radiological weapons, the procedure for verifying compliance, peaceful uses and the relationship of the proposed treaty with other international agreements and other measures in the field of disarmament, including nuclear disarmament.

^{*}/ A list of Documents, Working Papers and Conference Room Papers (1979-1982) submitted in connection with the question of radiological weapons is attached as Annex I to this report.

6. In 1980 and 1981, several specific suggestions were put forward in the Working Group in connection with the scope of the treaty. It was stated that the work of the Committee on Disarmament should be oriented towards the conclusion of a convention on the prohibition of use of radioactive material for hostile purposes.

7. Some delegations argued that there existed a very real risk of mass destruction from dissemination of radioactive substances through attacks on nuclear facilities. Those delegations believed that the treaty on radiological weapons would form an appropriate legal framework for an undertaking not to attack nuclear facilities or to deliberately damage such facilities.

8. Other delegations considered that an obligation to this effect would fall outside the framework of a treaty prohibiting radiological weapons. It was also felt that an attempt to deal in the same negotiations with the prohibition of radiological weapons and with the ban on attacks on nuclear facilities would complicate the negotiations and make elaboration of any agreement on either matter impracticable. They believed that the issues relating to nuclear facilities were already covered by the Geneva Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), 1977, and that any additional measures to protect nuclear facilities should be considered within the framework of international humanitarian law applicable in armed conflict.

9. Other delegations expressed the view that the existing international instruments on the subject were partial and ambiguous, and that the Committee on Disarmament was fully competent to consider the matter.

10. Some delegations also expressed the view that as a compromise the idea of holding separate negotiations on this question should be reflected in the text of the treaty or in a separate statement.

II. Present state of negotiations on elaboration of the Treaty prohibiting radiological weapons

A. Organization of work and procedures

11. In pursuance of the Committee's decision on subsidiary bodies, on 18 February 1982 (CD/243), the Ad Hoc Working Group on Radiological Weapons was re-established on the basis of its former mandate. The Working Group held 11 meetings between 20 February and 16 April 1982 under the Chairmanship of Ambassador Dr. Henning Wegener (Federal Republic of Germany). Mr. Guennady Efimov of the United Nations Centre for Disarmament served as Secretary of the Working Group.

12. At their request, representatives of the following States, non-members of the Committee on Disarmament, were invited to participate in the meetings of the Working Group during its 1982 session: Austria, Norway.

13. In addition to the earlier resolutions the Working Group also took into account resolution 36/97 B of the General Assembly which contained an appeal to complete its negotiations in order to allow a treaty to be submitted if possible to the General Assembly at its Second Special Session devoted to Disarmament.

14. Following consultations, the Chairman, on 9 March 1982, gave a comprehensive report (CD/RW/WP.25), advancing on a personal basis a certain number of suggestions as to the procedure to adopt, and as to possible compromises for the still unresolved problems.

15. At the suggestion of the Chairman, on 15 March 1982 the Working Group agreed, as a procedural hypothesis and without prejudice to later decisions, to conduct separate meetings on the "traditional" ^{1/} radiological weapons subject matter; on the one hand, and on the question of prohibition of attacks on nuclear facilities on the other (CD/WP.25/Add.1/Rev.1).

16. In this connection, some reservations were expressed. Some delegations maintained that such a procedural hypothesis should not be interpreted as signifying the commencement of negotiations on the subject of prohibition of attacks on nuclear facilities. Some delegations, while prepared to participate in the meetings, expressed doubts as to the competence of the Committee on Disarmament (or competence of the Working Group) to negotiate the question of protecting nuclear facilities from attack. Some delegations expressly reserved their position as to the competence of the Committee to deal with this matter. Some other delegations made clear that the consideration of that question could, in their view, only be of an exploratory nature at this time. Some delegations believed that the two subjects on which negotiations were being conducted in accordance with the proposed procedure should be treated equally on a non-discriminatory basis with a view to incorporating them in the same legal instrument. Other delegations expressly reserved their position with respect to the number and form of the future legal instrument(s) on the subjects under consideration.

B. "Traditional" RW subject matter

17. The Working Group on Radiological Weapons held three meetings devoted to consideration of the matters related to the "traditional" radiological weapons subject matter. While some new possible compromise formulations were advanced, the negotiations showed that differences still exist regarding, in particular, the definition of radiological weapons, the scope of prohibition, verification and compliance, peaceful uses, relationship of the treaty on radiological weapons with nuclear disarmament, and some aspects of the final clauses. Some delegations reminded the Working Group of their view that some draft articles might have to be revised, in view of their intention to have the ban on attacks on nuclear facilities included as an integral part of the Treaty.

18. With regard to the formulation of a definition of radiological weapons and because of the objections by some delegations to the inclusion of an explicit clause excluding nuclear weapons from the treaty, attempts were made to develop a "positive definition" which would not include such a clause. Some specific suggestions were made in this respect (CD/RW/WP.26, 30, 31 and Add.1).

19. Although no formulation was found to be entirely acceptable, from either the technical or legal point of view, the Working Group felt that efforts in this direction should be continued. While some delegations expressed their readiness to participate in those efforts, they still believed that the most effective way to define radiological weapons could be through maintaining an exclusion clause. Other delegations continued to believe that this would amount to a legitimization of nuclear weapons. Some delegations maintained their doubts as to the feasibility of including certain radioactive materials in the definition of radiological weapons.

^{1/} The Working Group agreed that for the purposes of this report the term "traditional" should be employed as a convenient reference to the scope of prohibition envisaged in the joint proposal contained in documents CD/31 and CD/32.

20. In connection with the scope of prohibition some delegations maintained that the use of the term radiological warfare would depend on the scope of the future treaty. Other delegations felt that the concept of radiological warfare has no place in the framework of such a treaty.

21. The view was also expressed that the treaty should not only address the prevention of the emergence of radiological weapons as a specific type of weapon, but also to the prohibition of the use of radiation from the decay of radioactive materials for hostile purposes.

22. Some delegations maintained that the future treaty on the prohibition of radiological weapons should contain an explicit commitment to urgently pursue negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons and the achievement of nuclear disarmament. In this connection the text of an article for inclusion in the treaty was proposed by the Group of 21 */ (CD/RW/WP.36). Other delegations were of the view that this article was inappropriate for inclusion in a radiological weapons treaty.

23. As regards peaceful uses, there was widespread recognition that the treaty should contain an appropriately balanced article which would include a provision relating to the strengthening of international co-operation in the peaceful uses of sources of radiation from radioactive decay and a provision stating that nothing in the treaty should be interpreted as affecting the inalienable right of the Parties to the Treaty to apply and develop their programmes for the peaceful uses of nuclear energy, and to international co-operation in this field; the Working Group, however, had not completed its consideration of the precise wording of these provisions.

24. On the question of compliance and verification, some delegations were of the view that the procedures provided in the joint USSR/United States proposal correspond to the subject and scope of the treaty on prohibition of radiological weapons and should be fully maintained, including the provision for lodging complaints, in case of an alleged breach of the Treaty, with the United Nations Security Council.

25. Some delegations disagreed with these views and held that the procedures for lodging complaints under the Treaty should not refer to the Security Council or other organs of the United Nations, since such procedures were, in any event, available under the United Nations Charter, and that the Consultative Committee of Experts should be the focal point for complaints and verification matters under the treaty. It was suggested that the Consultative Committee of Experts should be provided with broad investigatory powers so as to include, in the view of some delegations, provisions for on-site inspections. Some delegations advocated a two-tiered structure for the verification régime under the treaty, with a Consultative Committee of Experts as a fact-finding and evaluating body, and a General Assembly of States Parties as a political forum for consideration of alleged breaches of the treaty. It was agreed that the issues of compliance and verification under the treaty needed further consideration.

*/ Algeria, Argentina, Brazil, Burma, Cuba, Egypt, Ethiopia, India, Indonesia, Iran, Kenya, Mexico, Morocco, Nigeria, Pakistan, Peru, Sri Lanka, Sweden, Venezuela, Yugoslavia, Zaire.

26. Some delegations pointed out that the detailed elaboration of the provisions on verification and compliance would require the prior solution of the outstanding issues relating to the scope of prohibition.

27. With regard to the final clauses, the proposal was made for a more elaborate procedure to act upon proposed amendments (CD/RW/WP.20/Add.9/Rev.1); the general idea of this amendment was supported by some delegations. While some divergencies persisted as to the time intervals between entry into force and holding of a first and subsequent review conferences, the view was expressed that these differences could, perhaps, be overcome.

28. The view was widely held that the treaty should enter into force upon the deposit of the instruments of ratification by a lower number than 25 hitherto discussed and the number of 15 was advanced in this context, while some delegations reaffirmed their position that the treaty should enter into force upon its ratification by 25 governments, including the nuclear weapon States.

C. Consideration of the question relating to the prohibition of attacks on nuclear facilities

29. The Working Group also held three meetings devoted to consideration of some issues of relevance relating to the question of protecting nuclear facilities. During these meetings a number of delegations reiterated their reservation as stated in paragraph 16 above. One delegation did not take part in the meetings.

30. The discussion on the prohibition of attack on nuclear facilities followed the outline in the working paper CD/RW/WP.35 proposed by the Chairman and centered around the definition of facilities to be protected and the scope of a possible prohibition.

31. The Working Group heard technical explanations from some delegations as to the destructive effects that could result from attacks on nuclear power reactors exceeding a certain minimum thermal power, reprocessing plants and storage facilities of irradiated material and waste. It was pointed out that attacks on such facilities could possibly result in mass destruction, whereas in the case of certain other facilities, attacks on them would not result in mass destruction because of their low inventory of radioactive material or the lack of such inventory. A certain number of divergencies in relation to these issues appeared.

32. Some delegations proposed that the prohibition of attacks on nuclear facilities should be as comprehensive as possible. Since the basic objective was, in their view, to prevent mass destruction, there could be no justification to differentiate between civilian and military facilities. They also believed that mass destruction would result from attacks on either kind of facilities. However, in their view, mass destruction was not the only criterion relevant to this issue. They argued that an important objective of the proposed instrument was to restore confidence among the countries regarding their peaceful nuclear programmes. This confidence had, in their opinion, been severely eroded in the wake of the Israeli attack on the peaceful nuclear facilities of a developing country. Therefore, they argued that the scope of the prohibition should include not only the larger nuclear fuel cycle facilities but also the smaller research reactors and other facilities. To exclude the latter, in their view, would constitute gross discrimination against the developing countries. In this connection, a specific proposal on the definition of facilities to be protected was put forward by one delegation (CD/RW/CRP.16).

33. Some other delegations felt that it would create serious and possibly insuperable difficulties to grant protection to all nuclear facilities and that in this context it would be appropriate to introduce a threshold of minimum inventory of radioactivity (and of a minimum thermal power in the case of nuclear reactors) so as to eliminate from the protection facilities which, in case of attack, would not cause mass destruction. In this regard, it was particularly emphasized by these delegations that a prohibition of attacks on facilities, which would not result in any radiological damage, would provide a disincentive to the use of nuclear energy for peaceful purposes to the benefit of mankind. Some delegations held that the inclusion of military installations would entail very complex problems. A working paper on definition and scope of prohibition was put before the Working Group by one delegation (CD/RW/WP.34).

34. Some delegations noted however that this very working paper stated that "there may be good arguments that all facilities of the kind mentioned above should be protected by a radiological weapons convention be they civilian, military or dual purpose". A partial ban could, in their view, legitimize attacks on certain nuclear facilities resulting in mass destruction and thus contravene the main objective of the prohibition and increase the difficulties of compliance and verification. They also pointed out that the promotion of nuclear energy, at least in the developing countries was not being impeded by public opinion in these countries but by the restrictive policies of certain industrialized countries.

35. On the other hand, it was pointed out that such a comprehensive ban could not be reasonably expected to be successfully negotiated or, alternatively, to receive the necessary number of ratifications to make it a viable and effective instrument of international law, and thus to remove the danger of mass destruction. The delegation, whose Working Paper had been quoted in the preceding paragraph, drew attention to the fact that the Paper in this context also contained the following statement: "The political difficulties of protecting military facilities in an international instrument are obvious, and such facilities therefore seem to have to be excluded from a convention".

36. It was, however, stated by some delegations that such political difficulties as may be involved were not sufficient reason for a partial prohibition. In their view such an approach would leave open the possibility of legitimizing mass destruction in the conduct of warfare.

37. Some other delegations believed many of the arguments advanced above were inaccurate and further had little to do with the issues at hand.

38. The divergencies could not be settled in the course of the three meetings of the Working Group. Some delegations felt that the topic needed further clarification and discussion. They also felt that a detailed discussion on the remaining issues of the Chairman's provisional checklist (CD/RW/WP.35) would also require a solution of these basic differences of view on definition of facilities and scope of prohibition.

ANNEX I

COMMITTEE ON DISARMAMENT
Ad Hoc Working Group on
Radiological Weapons

CD/RW/WP.13/Rev.3
21 April 1981
ENGLISH only

LIST

of Documents, Working Papers and Conference Room Papers

I. Documents and Working Papers

1. CD/31 Union of Soviet Socialist Republics: Agreed joint USSR-United States proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons.
2. CD/32 United States of America: Agreed joint United States-USSR proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons.
3. CD/40 Hungary: Working paper on the draft preamble part of the Treaty on the prohibition of the development, manufacture, stockpiling and use of radiological weapons.
4. CD/42 German Democratic Republic: Working paper on draft paragraph XI, subparagraph 3, and paragraph XII, subparagraph 3, of the Treaty on the prohibition of the development, manufacture, stockpiling and use of radiological weapons.
5. CD/104
(also as CD/RW/WP.1) Secretariat: Compilation of relevant documents on radiological weapons covering the period 1979-1980.
6. CD/133 Report to the Committee on Disarmament: Ad Hoc Working Group established with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. (1 August 1980)
7. CD/218 Report of the Ad Hoc Working Group on Radiological Weapons (14 August 1981)
8. CD/RW/WP.2/Rev.1 Chairman: Main elements in the negotiations of a treaty on the prohibition of radiological weapons.
9. CD/RW/WP.3 Canada: Comments on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons.
10. CD/RW/WP.4 Federal Republic of Germany: Proposed new Article V.

11. CD/RW/WP.5 Federal Republic of Germany: Comments on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons.
12. CD/RW/WP.6 Sweden: Proposals for Articles I, II, and III of a treaty prohibiting radiological warfare including the development, production, stockpiling and use of radiological weapons.
13. CD/RW/WP.7 Italy: Comments on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons (Document CD/31 and CD/32).
14. CD/RW/WP.8 France: Proposed amendments to the agreed joint USSR-United States proposal on major elements of a Treaty prohibiting the development, production, stockpiling and use of radiological weapons.
15. CD/RW/WP.9 Pakistan: Revised Article V; new article after Article V.
16. CD/RW/WP.10 Yugoslavia: Proposal for an article of the treaty related to the definition of radiological weapons.
17. CD/RW/WP.11 Argentina: Observations of a treaty prohibiting radiological weapons.
18. CD/RW/WP.12 Venezuela: Proposals for amendments to the "Agreed joint USSR-United States proposal on major elements of a treaty prohibiting the development, production, stockpiling and use of radiological weapons".
19. CD/RW/WP.14 Sweden: Proposal for a study on IAEA safeguards.
20. CD/RW/WP.15 Tabulation of proposals submitted to the Ad Hoc Working Group on Radiological Weapons on a treaty prohibiting radiological weapons (prepared by the Secretariat).
21. CD/RW/WP.15/Add.1/Rev.1 India: Proposals for amendments of Article I, II, III, V and VII of the elements of the proposed Draft Treaty on the Prohibition of Radiological Weapons.
22. CD/RW/WP.15/Add.2 Indonesia: Statement delivered by the delegation of Indonesia at the fourth meeting of the Ad Hoc Working Group on Radiological Weapons held on 13 March 1981.

23. CD/RW/WP.15/Add.2/Supp.1 Indonesia: Comment on the agreed joint USSR-United States CD/31-CD/32 especially paragraph 3, Article VIII concerning compliance and verification and on the French proposal contained in CD/RW/WT.3.
24. CD/RW/WP.15/Add.3 Yugoslavia: Proposal for amendments to Article II of the elements of the proposed Draft Treaty on the Prohibition of Radiological Weapons.
25. CD/RW/WP.16/Rev.1 Report to the Committee on Disarmament.
26. CD/RW/WP.17 The Chairman's brief delivered at the First meeting of the Ad Hoc Working Group on Radiological Weapons held on 20 February 1981.
27. CD/RW/WP.18 The Chairman's Working Paper containing alternative texts of Articles on definition and scope of prohibition of a future treaty.
28. CD/RW/WP.18/Add.1 The Chairman's Working Paper containing alternative texts of Articles on activities and obligations and peaceful uses.
29. CD/RW/WP.18/Add.2 The Chairman's Working Paper containing alternative texts of Articles on relationship with other Disarmament measures and agreements and compliance and verification.
30. CD/RW/WP.18/Add.2/Supp.1 The Chairman's Working Paper containing alternative text for Annex.
31. CD/RW/WP.18/Add.3 The Chairman's Working Paper containing alternative texts of Articles on Amendments, Duration and Withdrawal, Review Conferences, Adherence, Entry into Force, Depositary.
32. CD/RW/WP.19 Sweden: Memorandum on certain aspects of a convention prohibiting radiological warfare.
33. CD/RW/WP.20 The Chairman's Working Paper containing consolidated text based on proposals submitted by the Chairman.
34. CD/RW/WP.20/Add.1 Sweden: Proposal for Article VI of the consolidated text by the Chairman.
35. CD/RW/WP.20/Add.1/Supp.1 Morocco: Proposal for Article VI of the consolidated text by the Chairman.
36. CD/RW/WP.20/Add.2 Japan: Proposed amendment to Article V of CD/RW/WP.20.
37. CD/RW/WP.20/Add.3 Federal Republic of Germany: Proposal for Article VII and Annex of the consolidated text by the Chairman.

38. CD/RW/WP.20/Add.4 Sweden: Proposal for Article VIII of the consolidated text by the Chairman.
39. CD/RW/WP.20/Add.5 Venezuela: Proposed amendment to Article IX of document CD/RW/WP.20.
40. CD/RW/WP.20/Add.6 Morocco: Proposed amendment to Article VII of document CD/RW/WP.20.
41. CD/RW/WP.20/Add.7 The Chairman's Working Paper on definition and scope of prohibition.
42. CD/RW/WP.20/Add.8 The Chairman's Working Paper on peaceful uses.
43. CD/RW/WP.20/Add.9/Rev.1 The Netherlands: Proposed Amendments to Articles VIII and X.
44. CD/RW/WP.21 The Chairman's Working Paper containing time-table for the work of the Working Group during the Second part of the CD 1981 session.
45. CD/RW/WP.22 Australia: Working Paper on scope and definition of the future Treaty on Radiological Weapons.
46. CD/RW/WP.23 Group of 21: Working Paper on certain elements of the Convention on the Prohibition.
47. CD/RW/WP.24 Draft Report of the Ad Hoc Working Group on Radiological Weapons.
48. CD/RW/WP.24/Rev.1 Draft Report of the Ad Hoc Working Group on Radiological Weapons.
49. CD/RW/WP.25 Chairman's Statement (9 March 1982).
50. CD/RW/WP.25/Add.1/Rev.1 Chairman's Amended Proposal for the organization of work during the opening session (adopted by the Working Group on 15 March 1982).
51. CD/RW/WP.26 Chairman's Working Paper: Positive formulations of an RW Definition (Synopsis).
52. CD/RW/WP.27^{*} Tentative Programme of Work (Submitted by the Chairman).
53. CD/RW/WP.28 Chairman's Working Paper: Suggested formulation of the provision on scope of the Radiological Weapons Treaty.
54. CD/RW/WP.29 Chairman's Working Paper: Suggested formulations of the provisions on peaceful uses.
55. CD/RW/WP.30 Yugoslavia: Definition of Radiological Weapons - Article II.

56. CD/RW/WP.31 Australia: Proposal on Definition and Scope of Prohibition (giving two alternative texts).
57. CD/RW/WP.32 Chairman's Working Paper: Suggested mechanism of compliance and verification (following on Document CD/RW/WP.20).
58. CD/RW/WP.33 Chairman's Summary of suggested issues of initial relevance relating to protection of nuclear facilities for discussion during Working Group meetings on 26 March and 2 April 1982.
59. CD/RW/WP.34 Sweden: Memorandum of certain aspects of a convention prohibiting radiological warfare (5 April 1982).
60. CD/RW/WP.35 Draft Report to the Committee on Disarmament in view of the Second Special Session devoted to Disarmament: submitted by the Chairman (Introduction) (Parts A and C).
61. CD/RW/WP.35/Add.1 Discussions on the provisions of the Draft Treaty on Radiological Weapons ("traditional" RW subject matter): submitted by the Chairman (Part B).
62. CD/RW/WP.36 Group of 21: Text proposed for an Article in the Draft Treaty on Radiological Weapons (14 April 1982).

II. Conference Room Papers

1. CD/RW/CRP.1 and Corr.1 Definition: Proposals by USSR-United States, Netherlands, France, Sweden, Egypt, Mexico, Pakistan, Canada and Italy.
2. CD/RW/CRP.1/Add.1 and Corr.1 Definition: Proposals by Egypt, Pakistan, Italy and Australia.
3. CD/RW/CRP.1/Add.2 Definition: Proposals by India.
4. CD/RW/CRP.1/Add.3 Definition: Proposal by Yugoslavia.
5. CD/RW/CRP.1/Add.4 Definition: Proposals by Venezuela and Argentina.
6. CD/RW/CRP.1/Add.5 Definition: Proposal by Morocco.
7. CD/RW/CRP.2 Scope of Prohibition: Proposals by USSR-United States, Belgium, Sweden, Netherlands and Australia.
8. CD/RW/CRP.2/Add.1 Scope of Prohibition: Proposal by France.
9. CD/RW/CRP.3 Activities and Obligations: Proposals by USSR-United States, Italy, Canada, Sweden, Netherlands, Pakistan and India.

10. CD/RW/CRP.3/Add.1 Activities and Obligations: Proposals by Australia and France.
11. CD/RW/CRP.4 Peaceful Uses: Proposals by USSR-United States, Federal Republic of Germany, Italy and Pakistan.
12. CD/RW/CRP.4/Add.1 Peaceful Uses: Proposal by France.
13. CD/RW/CRP.4/Add.2 Peaceful Uses: Proposal by Pakistan.
14. CD/RW/CRP.4/Add.3 Peaceful Uses: Proposal by Romania.
15. CD/RW/CRP.5 Relationship with other disarmament measures and agreements: Proposals by USSR-United States, Pakistan, Egypt, Canada and France.
16. CD/RW/CRP.5/Add.1 Relationship with other disarmament measures and agreements: Proposal by Australia and France.
17. CD/RW/CRP.5/Add.2 Relationship with other disarmament measures and agreements: Proposal by Pakistan.
18. CD/RW/CRP.6 Compliance and Verification: Proposals by USSR-United States, Belgium, France and Sweden.
19. CD/RW/CRP.6/Add.1 Compliance and Verification: Proposal by Pakistan.
20. CD/RW/CRP.7 Annex: Proposals by USSR-United States and France.
21. CD/RW/CRP.8 Amendments: Proposals by USSR-United States and France.
22. CD/RW/CRP.9 Duration and Withdrawal: Proposals by USSR-United States and France.
23. CD/RW/CRP.10 Review Conferences: Proposals by USSR-United States, German Democratic Republic, Australia and France.
24. CD/RW/CRP.10/Add.1 Review Conferences: Proposal by Morocco.
25. CD/RW/CRP.11 Adherence, Entry into Force, Depositary: Proposals by USSR-United States, German Democratic Republic, Australia, France and Pakistan.
26. CD/RW/CRP.12 Preamble: Proposals by Hungary, Sweden, Egypt and Belgium.
27. CD/RW/CRP.12/Add.1 Preamble: Proposal by Bulgaria.

28. CD/RW/CRP.12/Add.2 Preamble: Proposals by Sweden and Federal Republic of Germany.
29. CD/RW/CRP.13 Invitation to the International Atomic Energy Agency: Proposal by The Netherlands.
30. CD/RW/CRP.14 Scope on Prohibition: Proposal by The Netherlands.
31. CD/RW/CRP.15 Amendments to text of Draft Report.
32. CD/RW/CRP.16 Definition of facilities to be protected: Proposal by Pakistan.
33. CD/RW/CRP.17 Draft Consolidated Radiological Weapons Treaty Provisions: Submitted by the Chairman.

SPECIAL REPORT TO THE COMMITTEE ON DISARMAMENT IN VIEW OF
THE SECOND SPECIAL SESSION DEVOTED TO DISARMAMENT

Ad Hoc Working Group on Radiological Weapons

CORRIGENDUM

page 2, paragraph 11

The second sentence of this paragraph should read as follows:

"The Working Group held 12 meetings between 20 February and 21 April 1982 under the Chairmanship of Ambassador Dr. Henning Wegener (Federal Republic of Germany)."

STATEMENT MADE BY AMBASSADOR HENNING WEGENER, CHAIRMAN OF THE AD HOC
WORKING GROUP ON RADIOLOGICAL WEAPONS, ON THE OCCASION OF THE SUBMISSION
TO THE COMMITTEE ON DISARMAMENT OF THE REPORT OF THE GROUP

The Working Group had chosen to make use of its time for substantive negotiations as late into last week as possible. As a consequence, only one meeting was available for discussion and adoption of the report. This has placed a considerable burden upon the Secretariat who had to put in extra hours to reproduce the report from a somewhat heterogeneous collection of oral and handwritten amendments designed to supplement the original draft. The members of the Secretariat have done an excellent job under these difficult circumstances, and I should like to thank them on behalf of the Working Group.

However, it was unavoidable in this situation, that a small number of errors or ambiguities have crept into the printed text. With your permission, I should therefore like to read this limited number of amendments, which have become necessary, none of which changes the general thrust and structure of the report, but which will help to clarify it. None of the amendments adds to the text a sentence or thought that was not already part of the Working Group's decision to adopt the report. I then refer to CD/284, and, in the English version to CD/284*. I quote from the English text, on page 2, in the penultimate line we should strike out the words at the end of the line, "radiation from the decay of". On page 3, in paragraph 16, in the seventh line after the sentence ending with "from attack", kindly insert the following additional sentence: "Some delegations expressly reserved their position as to the competence of the Committee to deal with this matter". On page 5, in the last sentence of paragraph 27, there is a mere printing error, please replace words "points of view" by "differences". And on the last page, it has become necessary to clarify that some of the sentences written here are quotations from what delegations said. In paragraph 32 therefore, in the second sentence, the words "in their view" should be put in, the sentence should then read, "Since a basic objective was, in their view, ..." on to "prevent". The following sentence should be prefaced "they also believed", the sentence then to read, "They also believed mass destruction would result from attacks, etc." In paragraph 34, the second sentence, the words "in their view" should be put in, the sentence then to read, "a partial ban could, in their view, legitimize, etc." In paragraph 33, in the fourth line, the term "thermal effect" for mere technical reasons of correctness, should be replaced by "thermal power".

As delegations will recognize, while taking note of the contents of the Report, the record of the Working Group is far from brilliant. While a promising start was made in early March with a practicable procedural decision that did much to unblock a deadlock situation, the sense of urgency which General Assembly Resolution 36/97 B had initially instilled into the Group and which raised hope that convincing progress could be made at least on the "traditional" RW subject matter, rapidly vanished, and the Working Group is now still faced with some of the same problems that made its work difficult in the preceding year. The willingness of delegations to consider compromise formulation, and to join in a common effort to reach consensus results, faded away at least when the time came

to draft this Report. Instead of proudly going on record with the measure of progress achieved, delegations preferred to restate their earlier positions, in a clear attempt to keep their stance intact for the next round of negotiations. Some delegations even used the opportunity to phrase their demands with new vigour, although it must have been abundantly clear to them their proposals harboured no promise of adoption by the Working Group. The Chairman, in various instances, attempted to put forward texts which in his view took a maximum number of positions into account, but he generally remained unsuccessful. When he, in the closing stages of the session offered to submit an integral draft text of a future RV treaty, covering the "traditional RV" subject matter, a draft which, in his perception could have served as a suitable for compromise on which all delegations could eventually agree, he was given to understand that such an initiative was unwelcome, he thus abstained from circulating the text.

The several parallel meetings on questions relating to the prohibition of attacks on nuclear facilities, provided an opportunity for discussion in depth of some highly relevant issues. A number of delegations contributed to an elucidation of the technical problems involved, and it is fair to say that the Working Group as a whole gained considerable insights into the problems at hand. However, major divergencies as to the scope of possible prohibition appeared at an early point, and proved to be so considerable as to impede further progress even on the level of initial discussion.

While the Working Group's Session has certainly contributed to providing a clearer perspective to all delegations on the issues and on certain options for solution, the field is still wide open. Once again, the Working Group, dealing with a subject matter of only limited significance for the global disarmament process, has been unable to live up fully to its responsibilities. That constitutes a serious challenge for the forthcoming summer session. It will still be my privilege to preside over the work at that time. When work is resumed, I will urge all delegations to renew their efforts to come to grips with the still unresolved problems, and I would already ask them now to clear their minds and to use the intermediate period for reflection about how some of the outstanding problems of principle can be tackled without undue loss of time.

While the Spring Session was disappointing in its results, I yet have to acknowledge that many delegations, and many colleagues personally, offered the Chairman an exceptionally fine co-operation and bore with him in the search for results and compromise. I should like to express my gratitude to them, just as I thank the Secretariat and the interpreters for their fine work.

Should a mode be adopted according to which all the introductory statements by Working Groups' Chairmen be circulated, I would not want to be excluded, however, I would think that in my special case a rendering in the verbatim record would be sufficient.

- CD/CW/CRP.52 and Rev.1, Rev.2 entitled 'Draft Report to the Committee on Disarmament prepared in view of the second special session devoted to disarmament'
- CD/CW/CRP.53 submitted by Sweden, entitled 'Suggestions for consultations with delegations, assisted by experts, by the Chairman of the Working Group on Chemical Weapons'
- CD/CW/CRP.54 submitted by The Netherlands, entitled 'Suggested alternative wording for paragraph 3 of Element IX, paragraph 1 of Element XI, Element XII, Element XIII and text proposed for new Element XIII bis'
- CD/CW/CRP.55 submitted by the Union of Soviet Socialist Republics, entitled 'Suggestions for consultations with delegations, assisted by experts, by the Chairman of the Working Group on Chemical Weapons'
- CD/CW/CRP.56 submitted by China, entitled 'Suggested alternative wording for the second paragraph of the draft preamble as suggested by the Chairman contained in CD/CW/CRP.47'
- CD/CW/CRP.57 submitted by Sweden, entitled 'Suggested wording for the report of the Chairman of the Working Group on Chemical Weapons to the Committee on Disarmament concerning consultations held during the first part of the 1982 session'
- CD/CW/CRP.58, entitled 'Summary by the Chairman of initial comments made with respect to the draft Preamble (CD/CW/CRP.47)'
- CD/CW/CRP.59 submitted by Australia, entitled 'Suggestions for consultations with delegations, assisted by experts, by the Chairman of the Working Group on Chemical Weapons''

E. New Types of Weapons of Mass Destruction and New Systems of Such Weapons;
Radiological Weapons

67. The item on the agenda entitled "New types of weapons of mass destruction and new systems of such weapons; radiological weapons" has been considered by the Committee since July 1979. The question of prohibiting radiological weapons has been mainly considered by an ad hoc working group of the Committee. A description of the work of that group is given in its latest report to the Committee, which was prepared in view of the second special session of the General Assembly devoted to disarmament (CD/284/Rev.1).

68. During the 1980 and 1981 sessions, Ambassador I. Komives (Hungary) was Chairman of the Ad Hoc Working Group; Ambassador H. Wegener (Federal Republic of Germany) was Chairman during the 1982 session. In the course of its 1980/1981 and the first part of its 1982 sessions, the Ad Hoc Working Group held a total of 49 meetings. At their request, the Committee invited the representatives of the following States not members of the Committee to participate in the meetings of the Ad Hoc Working Group at various stages of its work: Austria and Norway.

69. At its 173rd plenary meeting on 21 April 1982 the Committee adopted the report of the Ad Hoc Working Group, which is an integral part of this special report and reads as follows:

"I. INTRODUCTION */

"Taking into consideration paragraph 76 of the final document of the First Special Session of the General Assembly devoted to Disarmament, which stated that a convention should be concluded prohibiting the development, production, stockpiling and use of radiological weapons, the Committee on Disarmament considered the question of concluding a treaty on radiological weapons in its 1979 session. During this session, the USSR and the United States submitted their joint USSR/United States proposal on major elements of the treaty (CD/31 and CD/32). Other proposals were also submitted.

"Bearing in mind General Assembly resolution 34/07 A entitled "Conclusion of an international convention prohibiting the development, production, stockpiling and use of radiological weapons", the Committee on Disarmament at its 69th Plenary Meeting held on 17 March 1980 adopted the decision reading, inter alia,

"The Committee on Disarmament decided to establish for the duration of its 1980 session an ad hoc working group of the Committee with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons."

"The Working Group was re-established by the Committee in 1981 at its 105th Plenary Meeting on 12 February 1981 to continue its work on the basis of its former mandate.

"During the 1980/1981 sessions of the Committee on Disarmament, the Working Group under the Chairmanship of Ambassador Dr. Imre Kóniyes (Hungary) held further discussions on the main elements of a treaty prohibiting radiological weapons on the basis of the Chairman's Consolidated Text (CD/RW/WP.20) and other documents and proposals submitted with a view to elaborating the draft provisions for the treaty on radiological weapons (CD/133 and CD/220).

"The activities of the Ad Hoc Working Group during that period showed that, while further efforts were made to narrow down the existing difficulties, divergencies still existed, particularly on the scope of the prohibition, the definition of radiological weapons, the procedure for verifying compliance, peaceful uses and the relationship of the proposed treaty with other international agreements and other measures in the field of disarmament, including nuclear disarmament.

*/ A list of Documents, Working Papers and Conference Room Papers (1979-1982) submitted in connection with the question of radiological weapons is attached as Annex I to this report.

"In 1980 and 1981, several specific suggestions were put forward in the Working Group in connection with the scope of the treaty. It was stated that the work of the Committee on Disarmament should be oriented towards the conclusion of a convention on the prohibition of use of radioactive material for hostile purposes.

"Some delegations argued that there existed a very real risk of mass destruction from dissemination of radioactive substances through attacks on nuclear facilities. Those delegations believed that the treaty on radiological weapons would form an appropriate legal framework for an undertaking not to attack nuclear facilities or to deliberately damage such facilities.

"Other delegations considered that an obligation to this effect would fall outside the framework of a treaty prohibiting radiological weapons. It was also felt that an attempt to deal in the same negotiations with the prohibition of radiological weapons and with the ban on attacks on nuclear facilities would complicate the negotiations and make elaboration of any agreement on either matter impracticable. They believed that the issues relating to nuclear facilities were already covered by the Geneva Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I), 1977, and that any additional measures to protect nuclear facilities should be considered within the framework of international humanitarian law applicable in armed conflict.

"Other delegations expressed the view that the existing international instruments on the subject were partial and ambiguous, and that the Committee on Disarmament was fully competent to consider the matter.

"Some delegations also expressed the view that as a compromise the idea of holding separate negotiations on this question should be reflected in the text of the treaty or in a separate statement.

"II. Present state of negotiations on elaboration of the Treaty prohibiting radiological weapons

"A. Organization of work and procedures

"In pursuance of the Committee's decision on subsidiary bodies, on 18 February 1982 (CD/243), the Ad Hoc Working Group on Radiological Weapons was re-established on the basis of its former mandate. The Working Group held 12 meetings between 20 February and 2 April 1982 under the Chairmanship of Ambassador Dr. Henning Wegener (Federal Republic of Germany). Mr. Guennady Efimov of the United Nations Centre for Disarmament served as Secretary of the Working Group.

"At their request, representatives of the following States, non-members of the Committee on Disarmament, were invited to participate in the meetings of the Working Group during its 1982 session: Austria, Norway.

"In addition to the earlier resolutions the Working Group also took into account resolution 36/97 B of the General Assembly which contained an appeal to complete its negotiations in order to allow a treaty to be submitted if possible to the General Assembly at its Second Special Session devoted to Disarmament.

"Following consultations, the Chairman, on 9 March 1982, gave a comprehensive report (CD/RW/WP.25), advancing on a personal basis a certain number of suggestions as to the procedure to adopt, and as to possible compromises for the still unresolved problems.

"At the suggestion of the Chairman, on 15 March 1982 the Working Group agreed, as a procedural hypothesis and without prejudice to later decisions, to conduct separate meetings on the "traditional"*/ radiological weapons subject matter, on the one hand, and on the question of prohibition of attacks on nuclear facilities on the other (CD/WP.25/Add.1/Rev.1).

"In this connection, some reservations were expressed. Some delegations maintained that such a procedural hypothesis should not be interpreted as signifying the commencement of negotiations on the subject of prohibition of attacks on nuclear facilities. Some delegations, while prepared to participate in the meetings, expressed doubts as to the competence of the Committee on Disarmament (or competence of the Working Group) to negotiate the question of protecting nuclear facilities from attack. Some delegations expressly reserved their position as to the competence of the Committee to deal with this matter. Some other delegations made clear that the consideration of that question could, in their view, only be of an exploratory nature at this time. Some delegations believed that the two subjects on which negotiations were being conducted in accordance with the proposed procedure should be treated equally on a non-discriminatory basis with a view to incorporating them in the same legal instrument. Other delegations expressly reserved their position with respect to the number and form of the future legal instrument(s) on the subjects under consideration.

"B. 'Traditional' RW subject matter

"The Working Group on Radiological Weapons held three meetings devoted to consideration of the matters related to the "traditional" radiological weapons subject matter. While some new possible compromise formulations were advanced, the negotiations showed that differences still exist regarding, in particular, the definition of radiological weapons, the scope of prohibition, verification and compliance, peaceful uses, relationship of the treaty on radiological weapons with nuclear disarmament, and some aspects of the final clauses. Some delegations reminded the Working Group of their view that some draft articles might have to be revised, in view of their intention to have the ban on attacks on nuclear facilities included as an integral part of the Treaty.

"With regard to the formulation of a definition of radiological weapons and because of the objections by some delegations to the inclusion of an explicit clause excluding nuclear weapons from the treaty, attempts were made to develop a "positive definition" which would not include such a clause. Some specific suggestions were made in this respect (CD/RW/WP.26, 30, 31 and Add.1).

"Although no formulation was found to be entirely acceptable, from either the technical or legal point of view, the Working Group felt that efforts in this direction should be continued. While some delegations expressed their readiness to participate in those efforts, they still believed that the most effective way to define radiological weapons could be through maintaining an exclusion clause. Other delegations continued to believe that this would amount to a legitimization of nuclear weapons. Some delegations maintained their doubts as to the feasibility of including certain radioactive materials in the definition of radiological weapons.

*/ The Working Group agreed that for the purposes of this report the term "traditional" should be employed as a convenient reference to the scope of prohibition envisaged in the joint proposal contained in documents CD/31 and CD/32.

"In connection with the scope of prohibition some delegations maintained that the use of the term radiological warfare would depend on the scope of the future treaty. Other delegations felt that the concept of radiological warfare has no place in the framework of such a treaty.

"The view was also expressed that the treaty should not only address the prevention of the emergence of radiological weapons as a specific type of weapon, but also to the prohibition of the use of radiation from the decay of radioactive materials for hostile purposes.

"Some delegations maintained that the future treaty on the prohibition of radiological weapons should contain an explicit commitment to urgently pursue negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons and the achievement of nuclear disarmament. In this connection the text of an article for inclusion in the treaty was proposed by the Group of 21 */ (CD/RW/WP.36). Other delegations were of the view that this article was inappropriate for inclusion in a radiological weapons treaty.

"As regards peaceful uses, there was widespread recognition that the treaty should contain an appropriately balanced article which would include a provision relating to the strengthening of international co-operation in the peaceful uses of sources of radiation from radioactive decay and a provision stating that nothing in the treaty should be interpreted as affecting the inalienable right of the Parties to the Treaty to apply and develop their programmes for the peaceful uses of nuclear energy, and to international co-operation in this field; the Working Group, however, had not completed its consideration of the precise wording of these provisions.

"On the question of compliance and verification, some delegations were of the view that the procedures provided in the joint USSR/United States proposal correspond to the subject and scope of the treaty on prohibition of radiological weapons and should be fully maintained, including the provision for lodging complaints, in case of an alleged breach of the Treaty, with the United Nations Security Council.

"Some delegations disagreed with these views and held that the procedures for lodging complaints under the Treaty should not refer to the Security Council or other organs of the United Nations, since such procedures were, in any event, available under the United Nations Charter, and that the Consultative Committee of Experts should be the focal point for complaints and verification matters under the treaty. It was suggested that the Consultative Committee of Experts should be provided with broad investigatory powers so as to include, in the view of some delegations, provisions for on-site inspections. Some delegations advocated a two-tiered structure for the verification régime under the treaty, with a Consultative Committee of Experts as a fact-finding and evaluating body, and a General Assembly of States Parties as a political forum for consideration of alleged breaches of the treaty. It was agreed that the issues of compliance and verification under the treaty needed further consideration.

*/ Algeria, Argentina, Brazil, Burma, Cuba, Egypt, Ethiopia, India, Indonesia, Iran, Kenya, Mexico, Morocco, Nigeria, Pakistan, Peru, Sri Lanka, Sweden, Venezuela, Yugoslavia, Zaire.

Some delegations pointed out that the detailed elaboration of the provisions on verification and compliance would require the prior solution of the outstanding issues relating to the scope of prohibition.

"With regard to the final clauses, the proposal was made for a more elaborate procedure to act upon proposed amendments (CD/RW/WP.20/Add.9/Rev.1); the general idea of this amendment was supported by some delegations. While some divergencies persisted as to the time intervals between entry into force and holding of a first and subsequent review conferences, the view was expressed that these differences could, perhaps, be overcome.

"The view was widely held that the treaty should enter into force upon the deposit of the instruments of ratification by a lower number than 25 hitherto discussed and the number of 15 was advanced in this context, while some delegations reaffirmed their position that the treaty should enter into force upon its ratification by 25 governments, including the nuclear weapon States.

"C. Consideration of the question relating to the prohibition of attacks on nuclear facilities

The Working Group also held three meetings devoted to consideration of some issues of relevance relating to the question of protecting nuclear facilities. During these meetings a number of delegations reiterated their reservation as stated in paragraph 16 above. One delegation did not take part in the meetings.

"The discussion on the prohibition of attack on nuclear facilities followed the outline in the working paper CD/RW/WP.33 proposed by the Chairman and centered around the definition of facilities to be protected and the scope of a possible prohibition.

"The Working Group heard technical explanations from some delegations as to the destructive effects that could result from attacks on nuclear power reactors exceeding a certain minimum thermal power, reprocessing plants and storage facilities of irradiated material and waste. It was pointed out that attacks on such facilities could possibly result in mass destruction, whereas in the case of certain other facilities, attacks on them would not result in mass destruction because of their low inventory of radioactive material or the lack of such inventory. A certain number of divergencies in relation to these issues appeared.

"Some delegations proposed that the prohibition of attacks on nuclear facilities should be as comprehensive as possible. Since the basic objective was, in their view, to prevent mass destruction, there could be no justification to differentiate between civilian and military facilities. They also believed that mass destruction would result from attacks on either kind of facilities. However, in their view, mass destruction was not the only criterion relevant to this issue. They argued that an important objective of the proposed instrument was to restore confidence among the countries regarding their peaceful nuclear programmes. This confidence had, in their opinion, been severely eroded in the wake of the Israeli attack on the peaceful nuclear facilities of a developing country. Therefore, they argued that the scope of the prohibition should include not only the larger nuclear fuel cycle facilities but also the smaller research reactors and other facilities. To exclude the latter, in their view, would constitute gross discrimination against the developing countries. In this connection, a specific proposal on the definition of facilities to be protected was put forward by one delegation (CD/RW/CRP.16).

"Some other delegations felt that it would create serious and possibly insuperable difficulties to grant protection to all nuclear facilities and that in this context it would be appropriate to introduce a threshold of minimum inventory of radioactivity (and of a minimum thermal power in the case of nuclear reactors) so as to eliminate from the protection facilities which, in case of attack, would not cause mass destruction. In this regard, it was particularly emphasized by these delegations that a prohibition of attacks on facilities, which would not result in any radiological damage, would provide a disincentive to the use of nuclear energy for peaceful purposes to the benefit of mankind. Some delegations held that the inclusion of military installations would entail very complex problems. A working paper on definition and scope of prohibition was put before the Working Group by one delegation (CD/RW/WP.34).

"Some delegations noted however that this very working paper stated that "there may be good arguments that all facilities of the kind mentioned above should be protected by a radiological weapons convention be they civilian, military or dual purpose". A partial ban could, in their view, legitimize attacks on certain nuclear facilities resulting in mass destruction and thus contravene the main objective of the prohibition and increase the difficulties of compliance and verification. They also pointed out that the promotion of nuclear energy, at least in the developing countries was not being impeded by public opinion in these countries but by the restrictive policies of certain industrialized countries.

"On the other hand, it was pointed out that such a comprehensive ban could not be reasonably expected to be successfully negotiated or, alternatively, to receive the necessary number of ratifications to make it a viable and effective instrument of international law, and thus to remove the danger of mass destruction. The delegation, whose Working Paper had been quoted in the preceding paragraph, drew attention to the fact that the Paper in this context also contained the following statement: "The political difficulties of protecting military facilities in an international instrument are obvious, and such facilities therefore seem to have to be excluded from a convention".

"It was, however, stated by some delegations that such political difficulties as may be involved were not sufficient reason for a partial prohibition. In their view such an approach would leave open the possibility of legitimizing mass destruction in the conduct of warfare.

"Some other delegations believed many of the arguments advanced above were inaccurate and further had little to do with the issues at hand.

"The divergencies could not be settled in the course of the three meetings of the Working Group. Some delegations felt that the topic needed further clarification and discussion. They also felt that a detailed discussion on the remaining issues of the Chairman's provisional checklist (CD/RW/WP.33) would also require a solution of these basic differences of view on definition of facilities and scope of prohibition.

JAPAN

WORKING PAPER

PROHIBITION OF ATTACKS AGAINST NUCLEAR FACILITIES

1. The purpose of this working paper is to indicate a possibility of solving the question of the prohibition of attacks against nuclear facilities within the framework of a Radiological Weapons treaty, with a view to facilitating deliberations on, and the early conclusion of a RW treaty.
2. Japan has 24 nuclear power stations, 6 nuclear-fuel processing facilities and 1 reprocessing plant on its small expanse of land territory and is firmly resolved to use nuclear energy only for peaceful purposes. For Japan, therefore, it is a matter of great concern to ensure the security of these nuclear facilities and we consider that the prohibiting of attacks against such facilities by international agreement would be of considerable significance in this regard. We also believe that achievement of such agreement would be a matter of similar interest to many other countries with nuclear facilities for peaceful purposes on their territories. Expressing such a view in the Second Special Session of the United Nations General Assembly devoted to Disarmament, Prime Minister Suzuki stated as follows: "It is a matter of great concern for countries of the world to be relieved of anxieties in regard to the peaceful uses of nuclear energy. It is important in particular, to ensure and guarantee the security of nuclear facilities for peaceful purposes, and Japan hopes that international efforts towards this end will be successful. My country, for its part, wishes to contribute positively to these efforts."
3. In the course of the deliberation of a RW treaty in the Committee of Disarmament, the Swedish delegation submitted a proposal that a future RW treaty should include a provision on the prohibition of attacks against nuclear facilities. Japan appreciates the intention of this Swedish proposal from the viewpoint mentioned in 2 above.

Recognizing the importance of both the conclusion of a so-called "traditional" RW treaty and the prohibition of attacks against nuclear facilities, we have prepared an outline of a draft protocol on the prohibition of attacks against nuclear facilities as an optional protocol to the RW treaty (see Annex).

4. Japan proposes to deal with this question in the form of an optional protocol to the RW treaty for the following reasons:

- (1) Both a RW treaty and the proposed provisions on the prohibition of attacks against nuclear facilities would aim at minimizing the damage which may be caused by dissemination of radioactive materials. They are, however, of a different nature in that the former would prohibit "weapons", while the latter would prohibit an "act" -- the act of attacking nuclear facilities. It has become clear that the attempt to solve these two questions of a different nature by using one vehicle (a RW treaty) presents difficulties to many delegations and constitutes one of the factors making the achievement of a RW treaty difficult.
- (2) We believe, therefore, that one way to respond to the keen interest existing in the international community in both these questions is to attain an agreement on the prohibition of attacks against nuclear facilities in a separate instrument, while retaining a link to the RW treaty by making it an optional protocol within the framework of the treaty.
- (3) This proposal is put forward in response to the call of the Chairman of the Ad Hoc Working Group on Radiological Weapons, Ambassador Wegener, for a "compromise mechanism", and it is strongly hoped that it will be of some help in finding a way out of the present impasse in the efforts to achieve a RW treaty.

5. A view has been expressed that the question of the prohibition of attacks against nuclear facilities should be dealt with in the context of the 1977 Additional Protocols to the Geneva Conventions of 12 August 1949. However, it is necessary to bear in mind that the said Additional Protocols, which have their own background, prohibit attacks only on nuclear power stations.

6. With regard to the scope of the prohibition, namely which nuclear facilities should be protected from attack, Japan considers that out of nuclear facilities for peaceful purposes at least all nuclear facilities under IAEA safeguards should be protected.

7. We fully understand the idea that nuclear facilities in general should be protected from attack. Therefore, it is proposed that a paragraph to this effect be included in the preambular part of the protocol.

8. We are well aware that the conclusion of the proposed protocol as an international agreement would have complex implications for the security of states and would also involve a number of difficult technical problems of a legal nature. These would certainly require further examination and study.

9. It should also be pointed out that Japan has no intention to exclude the possibility of attacks against nuclear facilities in an independent and separate treaty.

ANNEX

OUTLINE OF DRAFT PROTOCOL ON THE PROHIBITION OF ATTACKS AGAINST
NUCLEAR FACILITIES (OPTIONAL PROTOCOL TO THE TREATY ON THE
PROHIBITION OF RADIOLOGICAL WEAPONS)

the States Parties to this Protocol,

Recalling that, in accordance with the Charter of the United Nations,
must refrain in their international relations from the threat or use of force
the territorial integrity or political independence of any State, or in any
manner inconsistent with the Purposes of the United Nations,

Taking into account the gravity of possible damage to the civilian
population by radioactive contamination that could ensue in the case of an attack
on a nuclear facility,

Expressing a general desire that nuclear facilities should not be attacked
on matters of principle,

Recognizing the importance of providing international protection to
all nuclear activities carried out under international control,

Believing that the prohibition of attacks against nuclear facilities on
which IAEA safeguards are applied would contribute to the protection of the civilian
population and the promotion of peaceful nuclear activities,

Desiring that such prohibition of attacks against nuclear facilities would
strengthen the measures provided for in the Treaty on the prohibition of radiological
weapons the purpose of which is to prevent damage by dissemination of radioactive
materials,

Have agreed as follows:

Article I

Each State Party to this Protocol undertakes not to make the object of attack
nuclear facilities on which IAEA safeguards are applied and which are located
on the territory of any other State Party, under the jurisdiction of such other
State Party or under its control anywhere.

Article II

The term "nuclear facilities on which IAEA safeguards are applied" means any
nuclear facilities on which the application of IAEA safeguards is provided for in
agreement with the IAEA.

Article III

In order to facilitate the identification of nuclear facilities protected under Article I, these facilities may be marked with a special sign (to be agreed upon).

Articles IV -

(Provisions on a complaint procedure, the registration of nuclear facilities to be protected, scope of protection, duration of the Protocol, amendments, withdrawal, review conferences and other matters shall be included if necessary, or relevant provisions of the RW treaty shall be made to apply with appropriate modifications.)

COMMITTEE ON DISARMAMENT

CD/323/Corr.1
CD/RW/WP.37/Corr.1
3 September 1982
ENGLISH ONLY

JAPAN
WORKING PAPER

PROHIBITION OF ATTACKS AGAINST NUCLEAR FACILITIES

Corrigendum

Page 3, replace paragraph 9 by the following:

"It should also be pointed out that Japan has no intention to exclude the possibility of dealing with the question of the prohibition of attacks against nuclear facilities in an independent and separate treaty."

GE.82-66283

FEDERAL REPUBLIC OF GERMANY

Working PaperIssues Relating to a Prohibition of Attacks
Against Nuclear Facilities in the framework
of a Radiological Weapons Treaty

I

General remarks

1. In its proposal of 30 June 1980 and its memorandum of 13 March 1981 Sweden expressed the view that there is a very real danger of mass destruction posed by the dissemination of radioactive substances in war. With this it had in mind the danger of military attacks on nuclear installations containing large amounts of radioactive materials. Consequently, it demanded that a treaty banning radiological weapons must also provide for the prohibition of radiological warfare so as to cover not only the development, production, stockpiling and use of radiological weapons but also attacks on civilian nuclear installations. Sweden therefore proposed "that the main source of radiological warfare, i.e. attacks on nuclear installations, should be mentioned explicitly" in Article III.

In this context, Sweden also contended that the protection of nuclear installations provided for in the additional protocols to the Geneva Conventions of 1949 (Article 55 of Protocol I and Article 15 of Protocol II) is not sufficient for two reasons: firstly, these protocols cover only nuclear electrical generating stations, thus omitting other installations containing large quantities of radioactive materials. Secondly, the purpose of the protocols is limited to providing protection for the civilian population in the vicinity of these installations and they permit military considerations to take precedence over humanitarian ones, thus allowing exceptions from the protective provisions. For the purpose of a comprehensive ban on radiological warfare, a radiological weapons treaty must, so as to "cover all important risks and have no loopholes", also ensure comprehensive protection for nuclear installations.

2. The present paper deals in section II with the main substantive questions relating to a comprehensive ban on military attacks on civilian nuclear installations. This section is a rough summary of the remarks made by two experts from the Federal Republic of Germany at the 1982 spring session of the Ad Hoc Working Group on Radiological Weapons. Section III then looks at the question of how such installations can be protected in practice and comes to the conclusion that one should examine how to improve the protection afforded by international customary law and by the first additional protocol to the Geneva Convention of 1949. Section IV then deals with the question of whether protective provisions should be drawn up within the framework of a treaty banning the development, production, stockpiling and use of radiological weapons (radiological weapons treaty) or elaborated in separate negotiations. It comes to the conclusion that the latter solution appears better and proposes that the link between the subject-matter of the radiological weapons treaty and improved protection for nuclear installations be underscored by including an obligation in the treaty for the early commencement of negotiations on the latter.

3. In the present paper the term "nuclear installations" covers the following nuclear power stations and other civilian installations containing a correspondingly high amount of radioactive materials, the release of which would lead to an unquantifiable loss of civilian life and/or render large areas of land unusable:

- power-generating and research reactors, even if they are temporarily or permanently shut down,
- intermediate stores for spent fuel elements,
- plants for reprocessing spent fuel elements,
- plants for producing mixed oxide fuel elements,
- containers for transporting radioactive material between the aforementioned plants.

Specifically military nuclear installations, which pose problems of their own, are not dealt with here.

II

Aspects of military attacks on nuclear installations

1. Significance of national safety regulations for nuclear installations

A decisive factor in assessing the effects of military attacks on nuclear installations are the safety standards which relate to the design and operation

of such installations and are, owing to the latter's dangerous potential, the prerequisite for the granting of planning permission by national authorities. These standards are aimed -- as in the case of industrial plants -- at protection against natural and civilian influences and not against military influences, but they also afford some limited protection against the latter. Of key importance in this respect are the design features for withstanding static and dynamic loads as a result of, for instance, earthquakes, aircraft crashes and lateral gas blast waves, for example from chemical explosions, as well as redundant and protective design features performing containment and filtering functions and thus preventing the escape of radionuclides in such cases.

Other nuclear installations might be designed in such a way that they are no more vulnerable to military attacks than nuclear power stations.

National safety standards relating to nuclear installations differ greatly. Moreover, in the course of time they have undergone substantial changes within individual countries so that various standards may apply in a single country, as a result of which older installations are less well protected against external effects than more recent ones. Obviously, in the case of low security standards nuclear power installations are much more susceptible to military influences than installations built in compliance with high safety requirements.

2. Effects of military attacks on nuclear installations

It must be assumed that there are still nuclear power installations in existence from which some of the radioactive substances would escape in the event of an attack with conventional weapons (for instance, 1,000 kg TNT in a high-explosive bomb). This applies all the more to attacks with nuclear weapons. The effects in the individual case depend on a number of factors, such as

- distance from the installation and point of impact of the weapon
- type and power of the weapon
- type of installation and its design features
- chemical and physical nature of the nuclear substances contained in the installation

- type and extent of the destruction of the installation
- meteorological conditions at the time of the attack
- possibility of short-term measures to limit the damage sustained by the installation.

The effects of a nuclear explosive device on the decisive concrete structures, i.e. containment, of a nuclear power station are confined to the blast wave. (Thermal and radioactive radiation do not yield any perceptible effects). If the explosive device impacts at a short distance from the installation, damage to the containment can no longer be ruled out, which can under certain circumstances lead to a core meltdown. This would, however, have effects only hours later. (Only if a sufficiently powerful nuclear explosive device directly hits the containment or impacts in its immediate vicinity is it likely that the containment will be immediately destroyed and that, in particularly unfavourable circumstances, the radioactive core will partly evaporate. Even in such a case the effects of the weapon's radionuclides predominate for the first few weeks.) Other nuclear installations, in so far as they have a containment similar to that of a reactor, behave more favourably in the event of an attack with nuclear weapons since, as a rule, all systems pass into a safe state (emergency cooling unnecessary) even without auxiliary energy supplies (electricity, water) and the effects of the evaporation of nuclides, which is to be expected in the event of a direct hit and may possibly exceed the effects of the nuclear weapon, are felt several weeks later.

Generally speaking, it can be said that the escape of radioactive substances from nuclear power installations produces barely calculable radiological effects which render large areas of land unusable to man for many decades.

3. Probability of military attacks on nuclear installations

The destruction of nuclear installations might in theory serve as a goal for military force since in this way, with only a limited use of special-purpose weapons, great damage can be achieved by releasing the radioactive material in an installation. For instance, the impairment of energy supplies and the resultant impact on industry, infrastructure and defence might be considered a feasible goal.

However, the escape of radioactive substances in such installations can have effects on the attacker's military operations, the nature and extent of which cannot be precisely determined. In other words, an attack on a nuclear installation would lead to uncertain and scarcely calculable factors in the attacker's operational planning. Furthermore, the deliberate destruction of such installations in conventional warfare would mean the start of an "indirect nuclear war" and could lead to unpredictable reactions by the other side. As it is, the adversary's energy supplies can be impaired without this risk by destroying conventional power stations, transformers, etc.

The use of nuclear weapons against a nuclear installation would, by destroying the installation, increase the radiological effects of the weapons used. However, nuclear-weapon States are not dependent on this effect. This effect would, moreover, be to their disadvantage owing to the above-stated results.

On the whole, the destruction of a nuclear installation entails a considerable element of uncertainty for the destroyer owing to the incalculable radioactive contamination. Moreover, the attacker is likely to be greatly interested in taking control of the valuable installations intact.

It can therefore be deduced from all these aspects that there are stronger arguments against a deliberate military attack on a nuclear installation. Furthermore, it would run counter to the trend in weapons technology towards precision weapons which permit targets to be eliminated by means of precision strikes with limited and precisely calculable effects if one were, at the same time to plan to cause unquantifiable effects by destroying nuclear installations.

Destruction of such installations by accidental strikes is therefore more probable than deliberate destruction. Accidental strikes will depend primarily on the type and extent of battles and their distance from the installations. They will, of course, become all the more probable if there are military targets in the vicinity of the installations. Considerable importance therefore attaches to the question of whether there are national safety regulations stipulating that military facilities and other military targets must be located at a minimum distance from nuclear installations for reasons of safety.

4. National regulations on safe distances between military targets and nuclear installations

A number of countries have regulations stipulating safe distances between potential military targets and nuclear installations. They are designed to ensure that, when military targets are attacked, neighbouring nuclear installations are not affected by accidental strikes or collateral damage. These distances are laid down in the licensing procedure for such installations. The military authorities have to ensure that the area around a nuclear power installation is kept free from all kinds of military targets. The distance is calculated by taking into account the weapons that are likely to be used against a military target, their potential area of dispersion, and the design of the installation.

III

Improved international protection for nuclear installations

1. Protective zones for nuclear installations

The only way of fully protecting nuclear installations against military attacks is to establish protective zones. These zones would serve to ensure that everyone is acquainted with the location of all potentially dangerous installations. They would thus help to make the prohibition of direct attacks on such installations more effective and also cause adversaries engaged in military action within the protective zone to take into account the proximity of the installation so as to avoid accidental strikes or collateral damage. The latter would require that the protective zones be kept free from military installations and other targets. In this connection, an inner and an outer circle within a protective zone are conceivable: the inner circle would be kept free from all targets, and the outer one free from particular types of targets (e.g. hardened ones). The protective zones and the location of nuclear power installations would have to be made known on acceding to the relevant treaty, for instance by exchanging lists. This would be necessary not least because nuclear installations are not always identifiable as such. Conspicuous markings visible from afar both in the air and on the ground would also make for effective protection.

However, the establishment of protective zones for nuclear installations poses considerable problems. As already mentioned, the safety standards for such installations differ between States and, in some cases, even within an individual country. If protective zones were to be confined to the minimum requirements,

zones of different sizes would have to be established. Alternatively, zones of a single size could be established worldwide in line with (assumed) low safety standards. In this case the zones would have to be fairly large.

Another problem is posed by the fact that some countries have a high density of nuclear installations, whilst in others they lie scattered far apart or exist only in small numbers. In the former countries, there would thus be a correspondingly large number of protective zones which, depending on the size of the countries and the zones, would cover a substantial part of the territory. As a result, sanctuaries would exist in these countries.

For these reasons it is a moot point whether protective zones can in fact be established in the near future.

2. Alternative solution

An alternative solution would be to lay down a general ban on attacks on nuclear installations, as already envisaged for international conflicts in Article 56 of Additional Protocol I to the Geneva Conventions. Although a general ban would not afford the same comprehensive protection for nuclear installations as would the establishment of protective zones, it would none the less provide desirable additional protection for such installations against military attacks. In other words, this solution amounts to the proposal that one should examine how to improve the protection afforded by international customary law and Additional Protocol I to the Geneva Conventions of 1949, specifically Article 56. In Article 56 (6) of the latter the High Contracting Parties are urged "to conclude further agreements among themselves to provide additional protection for objects containing dangerous forces".

Improved protection for nuclear installations under international law would be desirable for various reasons. For instance, by including only nuclear power stations and not other nuclear installations in Article 56 of Additional Protocol I -- even if it is assumed that the latter are covered by the protection afforded by general international law and other provisions of the Protocol -- one has not taken into account the fact that the escape of radioactive substances from nuclear installations has the same hazardous effects as the escape of such substances from nuclear power stations. The protection afforded by Article 56 of the Protocol could also be improved by other means: for example, by stipulating that certain types of military activity are not permitted within a specific area around nuclear installations or by agreeing on the international exchange of lists of protected installations.

IV

Dealing with the protection of nuclear installations in a radiological weapons treaty

1. When drawing up provisions designed to improve the protection of nuclear installations, one would have to proceed from the existing legal situation and both reaffirm and define more closely the prohibition of attacks on such installations which already exists under international law.

International law already contains the principle that military attacks must be directed primarily against military targets. Furthermore, in an armed conflict the right of the parties to the conflict to choose methods or means of warfare is not unlimited. The principle of commensurability has to be respected at all times.

This protection is expanded and defined in Additional Protocol I to the Geneva Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts.

However, the elaboration of such provisions would greatly transcend the framework initially envisaged for a radiological weapons treaty and probably necessitate a considerable amount of additional time. It therefore appears best to deal with the improved protection of nuclear installations in a separate agreement.

2. Another reason why it is preferable to deal with the improved protection of nuclear installations in a separate agreement is the fact that there are major differences in subject-matter:

A ban on radiological weapons is designed to prevent the use of radioactive substances as weapons which, on decomposition, release corpuscular and/or electromagnetic radiation and thus constitute weapons of mass destruction as defined in the 1948 United Nations Resolution. The establishment of nuclear installations, on the other hand, is of course not designed to produce the effect of weapons. Instead, these installations would be used as weapons by another country, not responsible for their establishment, when it destroys them. The principle military effect of attacks on nuclear installations would be a "multiplier effect" sparked off by the weapon itself. This is in principle comparable to the destruction of a dam by conventional weapons and the resultant devastating tidal wave.

A radiological weapons treaty, one of its purposes being -- as proposed by Sweden -- the prohibition of radiological warfare, would thus cover two highly different subject-matters: one of them would be the military use of ionizing radiation by employing devices, weapons or equipment specifically manufactured or designed for radiological warfare. The other would be ionizing radiation and its harmful effects caused by the unspecified impact of weapons when nuclear installations are damaged or destroyed during military attacks. The only common denominator would be the use of ionizing radiation for military purposes. Furthermore, the actual content of a ban on radiological warfare would -- in so far as it went beyond the prohibition of attacks on civilian nuclear installations -- be hard to determine.

3. In view of the great interest in improved protection for nuclear installations shown by numerous countries at the Geneva talks on a radiological weapons treaty, it would appear advisable to include an article in this treaty which underscores the link between the subject-matter of the treaty and improved protection for nuclear installations and thus leads to an early commencement of work on a specific agreement providing protection for such installations. In other words, the article should be worded to the effect that the Contracting Parties undertake to start negotiations as soon as possible on this subject.

Apart from the neutron weapon other so-called specialized nuclear weapons are reported to be under development, in which such characteristics as heat, blast or electromagnetic impulse are to be enhanced.

(b) Nuclear neutron weapons will lower the nuclear threshold, thus making a nuclear war not only thinkable but also wageable. Moreover, they are a weapon par excellence for a potential aggressor, since their use would enable him to annihilate human-beings and to take over intact material facilities such as towns, factories and the like after a relatively short time. These weapons are part of the concept to wage a "limited nuclear war" far from the territory of their user. Such military considerations can be reduced to one objective: to blur the distinction between nuclear and conventional weapons.

(c) Nuclear neutron weapons are planned to be deployed in various regions, i.a. in western Europe. Their introduction, it has been announced, will be followed by the deployment of such medium-range nuclear systems as the Pershing 2 missile and land-based cruise missiles. While the ultimate responsibility for creating the nuclear neutron weapon lies with the nuclear-weapon State concerned, it should not be neglected that the States on whose territories these weapons are to be stationed also bear a special responsibility. As it was emphasized in working paper CD/256, "it is up to the national authorities of non-nuclear-weapon States to take a sovereign decision on whether to accept nuclear weapons on their territories or not".

In addition, the danger of the proliferation of the nuclear neutron weapon and of its possible deployment in certain areas of conflict cannot be overlooked. Already now the racist regime of South Africa as well as Israel are reported to possess the means of delivery for the nuclear neutron weapon and to be capable of producing the weapon themselves.

COMMITTEE ON DISARMAMENT

CD/345
14 February 1983
ENGLISH
Original: RUSSIAN

ENSURING THE SAFE DEVELOPMENT OF NUCLEAR ENERGY

(Proposal by the group of socialist countries)

1. The group of socialist countries proposes the inclusion in the agenda of the Committee on Disarmament of a separate item entitled "Ensuring the safe development of nuclear energy" and also the establishment of an ad hoc working group to conduct negotiations with a view to the elaboration of an appropriate international agreement on this subject.
2. The group of socialist countries is making this proposal because it is in favour of the adoption of international legal measures for the prohibition of actions leading to the deliberate destruction of civilian nuclear facilities. At the same time the socialist countries believe that the elaboration and adoption of such measures would constitute a substantial contribution to the prevention of nuclear war in another important way, since the destruction of civilian nuclear facilities could have consequences similar in effect to those of a nuclear explosion.
3. The question of ensuring the safe development of nuclear energy is exceptionally important and urgent; it has been under discussion for many years now in bodies concerned with disarmament problems and in particular in the Committee on Disarmament as well as other international forums. This being so, the group of socialist countries considers that the best place for the conduct of multilateral negotiations on this urgent matter is the Committee on Disarmament.

In proposing the initiation of negotiations on this question, the group of socialist countries is prompted also by the recommendation of the United Nations General Assembly contained in its resolution 37/99 C of 13 December 1982, which was adopted on the basis of a consensus, that the Committee on Disarmament should continue its search for a solution to the question of the prohibition of military attacks on nuclear facilities, including the scope of such prohibition, taking into account all proposals submitted to it to this end. This question was also touched upon in certain other resolutions adopted by the United Nations General Assembly at its thirty-seventh session.

The group of socialist countries is convinced that the separate consideration of this matter in a working group of the Committee on Disarmament set up specially for this purpose would in fact be the best way of carrying out this task effectively. In the view of the group of socialist countries, the adoption of this organizational approach for the consideration of this question would at the same time facilitate progress in the negotiations on the prohibition of radiological weapons. It is no secret that the attempts to solve the problem of the prohibition of military attacks on civilian nuclear facilities within the framework of an agreement on the prohibition of radiological weapons have proved to be the main obstacle to progress in resolving each of these issues.

6. The group of socialist countries believes that its submission of this proposal provides a real possibility for the practical solution of the problem of the prohibition of radiological weapons as well as of that of the prohibition of military attacks on civilian nuclear facilities. The group of socialist countries considers that it is essential now to set aside disagreements on procedural matters and proceed without delay to deal with the substance of these two questions, the importance and urgency of which no one is likely to dispute. The group of socialist countries expects all States interested in the positive solution of these questions to support this proposal.

COMMITTEE

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COMMITTEE ON DISARMAMENT

CD/414

18 August 1983

Original: ENGLISH

REPORT OF THE AD HOC WORKING GROUP ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. At its 207th plenary meeting, on 29 March 1983, the Committee on Disarmament adopted the following decision, relating to item 5 on its agenda, contained in document CD/358, which, inter alia, reads:

The Committee decides to re-establish for the duration of its 1983 session the Ad Hoc Working Groups on a Nuclear Test Ban; Effective International Arrangements to Assure Non-Nuclear-Weapon States Against the Use or Threat of Use of Nuclear Weapons, Chemical Weapons and Radiological Weapons ...

It is understood that the ad hoc working groups may start their work on the basis of their former mandates ...

The ad hoc working groups will report to the Committee on the progress of their work before the conclusion of its 1983 session."

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At its 207th plenary meeting, on 29 March 1983, the Committee on Disarmament appointed Ambassador Curt Lidgard, representative of Sweden, as Chairman of the Ad Hoc Working Group. Dr. Lin Kuo-Chung of the United Nations Department for Disarmament Affairs served as Secretary of the Ad Hoc Working Group.

3. The Ad Hoc Working Group held six meetings between 8 April and 29 April and between 13 June and 17 August 1983.

4. At its 1st meeting, on 8 April, the Ad Hoc Working Group, upon the Chairman's suggestion, decided to establish two groups (A and B) to undertake substantive examinations of the two major issues before the Working Group. */ Group A, under the coordinatorship of the representative of the United States of America, would consider questions relating to "traditional radiological weapons subject matter" and Group B, under the coordinatorship of the representative of the Union of Soviet Socialist Republics, would examine issues related to prohibition of attacks against nuclear facilities. It was the understanding that the question of linkage between these two issues would be left aside for the time being and would be considered in the Ad Hoc Working Group itself at the end of the current session.

*/ A delegation, while not opposing the establishment of Group B, abstained from participating in that Group.

GE.83-63792

5. At their request, representatives of the following States, not members of the Committee on Disarmament, were invited to participate in the meetings of the Ad Hoc Working Group during the 1983 session: Austria, Burundi, Finland, Greece, Ireland, Norway, Senegal and Spain.

6. In carrying out its mandate, the Ad Hoc Working Group took into account paragraph 76 of the Final Document of the first special session of the General Assembly devoted to disarmament. It also took into consideration the relevant recommendations of the United Nations Disarmament Commission, in particular those adopted in connection with the Second Disarmament Decade in 1980. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Working Group took into account in particular resolution 37/99C of the General Assembly. Paragraphs 1 and 2 of that resolution read as follows:

"1. Requests the Committee on Disarmament to continue negotiations with a view to an early conclusion of the elaboration of a treaty prohibiting the development, production, stockpiling and use of radiological weapons, in order that it may be submitted to the General Assembly at its thirty-eighth session;

2. Further requests the Committee on Disarmament to continue its search for a solution to the question of prohibition of military attacks on nuclear facilities, including the scope of such prohibition, taking into account all proposals submitted to it to this end;"

7. During the 1983 session, the Ad Hoc Working Group had before it the following additional documents for consideration:

- (1) CD/345 A Group of Socialist Countries: Ensuring the Safe Development of Nuclear Energy (14 February 1983);
- (2) CD/RW/WP.41 United Kingdom: Definition of Radiological Weapons and the scope of a Radiological Weapons Treaty (13 April 1983);
- (3) CD/RW/WP.42 Chairman's Working Paper: Meetings in the First Part of 1983 Session (14 April 1983);
- (4) CD/RW/WP.43 Chairman's Working Paper: Meetings in the Second Part of 1983 Session (26 April 1983);
- (5) CD/RW/WP.44 Chairman's Working Paper, containing Coordinators' progress reports of Groups A and B (29 April 1983);
- (6) CD/RW/WP.45 and Corr.1 Sweden: Compliance and Verification (21 June 1983);
- (7) CD/RW/WP.46 Proposal by the delegation of the United States of America (16 June 1983);
- (8) CD/RW/WP.47 United Kingdom: The Prohibition of Attacks on Nuclear Facilities (30 June 1983);

- (9) CD/RW/WP.48 Group of 21: Proposal for an Article on "Peaceful Uses" (30 June 1983);
- (10) CD/RW/WP.49 Japan: Proposal for Article I ("Definition") Article II ("Scope of Prohibition") and the related Article (6 July 1983);
- (11) CD/RW/WP.50 A compilation of types or categories of nuclear facilities to be considered (9 August 1983);
- (12) CD/RW/WP.51 A compilation of alternative mechanisms for the linkage between "traditional radiological weapons subject matter" and "prohibition of attacks against nuclear facilities" (11 August 1983);
- (13) CD/RW/CRP.19 Suggestions by the Coordinator on the Issues of Definition, Peaceful Uses, and Relationship to Other Agreements (28 April 1983);
- (14) CD/RW/CRP.20 Suggestions by the Coordinator for the Structure of a Treaty Prohibiting Radiological Weapons (23 June 1983);
- (15) CD/RW/CRP.20/Rev.1 Submission by the Coordinator of Group A (3 August 1983);
- (16) CD/RW/CRP.21/Rev.1 Report of Group A (9 August 1983);
- (17) CD/RW/CRP.22/Rev.2 Report of Group B on the question of prohibition of attacks against nuclear facilities (12 August 1983);
- (18) CD/RW/CRP.23 Draft Report of the Ad Hoc Working Group on Radiological Weapons (11 August 1983);
- (19) CD/RW/CRP.24 A list of proposals regarding the question of prohibition of attacks against nuclear facilities (10 August 1983).

During the course of deliberations in the Working Group, as well as in Groups A and B, the Secretariat also prepared a number of informal working papers with a view to assisting the work of the Groups. They are listed as follows:

- (1) Compilation of texts regarding "Definition" and "Scope of Prohibition" as contained in CD/31, CD/32, CD/RW/WP.20 and CD/RW/WP.39;
- (2) Compilation of texts regarding "Peaceful Uses" as contained in CD/31, CD/32, CD/RW/WP.20 and CD/RW/WP.39;
- (3) Compilation of texts regarding "Relationship with other disarmament measures and agreements" as contained in CD/31, CD/32, CD/RW/WP.20 and CD/RW/WP.39;

- (4) Compilation of texts regarding "Compliance and Verification" as contained in CD/31, CD/32, CD/RW/WP.20 and CD/RW/WP.39;
- (5) A list of proposed draft treaties on radiological weapons;
- (6) A list of proposals on the draft preamble part of the Treaty on Radiological Weapons;
- (7) A list of proposals on "Definition" and "Scope of Prohibition" parts of the Treaty on Radiological Weapons;
- (8) A list of proposals on "Peaceful Uses" part of the Treaty on Radiological Weapons;
- (9) A list of proposals on "Relationship with other disarmament measures and agreements" part of the Treaty on Radiological Weapons;
- (10) A list of proposals on "Compliance and Verification" part of the Treaty on Radiological Weapons;
- (11) A list of proposals on "Amendments", "Review Conferences", "Duration and Withdrawal", "Adherence, Entry into Force, Depositary" parts of the Treaty on Radiological Weapons;
- (12) A list of proposals on "Annex" part of the Treaty on Radiological Weapons;
- (13) A list of proposals regarding the question of prohibition of attacks against nuclear facilities;
- (14) A compilation of texts of provisions contained in certain existing legal instruments regarding the question of prohibition of attacks against nuclear facilities;
- (15) Compilation of specific proposals which may facilitate the formulation of a list of criteria regarding the scope of prohibition of attacks against nuclear facilities;
- (16) A preliminary list of types or categories of nuclear facilities to be considered;
- (17) A compilation of alternative mechanisms for the linkage between "Traditional radiological weapons subject matter" and "prohibition of attacks against nuclear facilities".

III. SUBSTANTIVE NEGOTIATIONS ON THE SUBJECT DURING THE 1983 SESSION

8. In accordance with the Programme of Work adopted by the Ad Hoc Working Group as contained in document CD/RW/WP.42, Groups A and B held three meetings each between 11 and 28 April, under the coordinatorship of Mr. Morris D. Busby (USA) and Mr. Yury Nazarkin (USSR) respectively. The Coordinators of Groups A and B submitted progress reports, as contained in Annexes I and II of document CD/RW/WP.44 respectively.

9. During the second part of the 1983 session, Group A held nine meetings between 13 June and 8 August, under the coordinatorship of Mr. Morris D. Busby (USA). The Coordinator submitted the report of the Group on its work to the Ad Hoc Working Group on Radiological Weapons, as contained in Annex I of this report. Group B held 11 meetings between 21 June and 12 August under the coordinatorship of Mr. Boris P. Prokofiev (USSR). The Coordinator submitted the report of the Group on its work to the Ad Hoc Working Group on Radiological Weapons, as contained in Annex II of this report.

10. At its 4th and 5th meetings, on 11 and 15 August, the Ad Hoc Working Group considered the question of linkage between the two major issues before the Working Group, namely "traditional radiological weapons subject matter" and "prohibition of attacks against nuclear facilities". Taking into account various suggestions and proposals made by delegations, the Secretariat prepared a compilation of alternative mechanisms for the linkage between them (CD/RW/WP.51). The compilation contains the following alternative mechanisms:

- (1) One single treaty on radiological weapons covering both issues, in light of the fact that attacks against nuclear facilities could be tantamount to the use of radiological weapons;
- (2) One general treaty on radiological weapons containing two protocols, namely: Protocol I dealing with "traditional radiological weapons subject matter" and Protocol II dealing with "prohibition of attacks against nuclear facilities";
- (3) One treaty with one protocol, either integral or optional, namely: the treaty itself dealing with "traditional radiological weapons subject matter" and the protocol dealing with "prohibition of attacks against nuclear facilities";
- (4) Two separate treaties dealing with the two issues with clauses of understanding that the conclusion of one treaty will be pending the conclusion of the other treaty;
- (5) One treaty dealing with "traditional radiological weapons subject matter, with clauses of understanding that the relevant provisions contained in the existing legal instruments, in particular, the Additional Protocol I of 1977 to the Geneva Conventions of 1949 should be amended in such a manner that the question of "prohibition of attacks against nuclear facilities" be fully covered;
- (6) Two separate treaties dealing with the two issues independently without any linkage.

In addition the following alternative mechanisms were suggested:

- (1) One treaty on the "traditional radiological weapons subject matter" with the insertion of a clause stipulating that the Contracting Parties undertake to start negotiations as soon as possible on the prohibition of attacks against nuclear facilities.
- (2) One treaty dealing with the "traditional radiological weapons subject matter" could have clauses of understanding to the effect that the question of prohibiting military attacks against nuclear facilities, including the question of the scope of such a prohibition, be further considered with a view to reaching agreement on these issues.

On the basis of this compilation delegations had a general exchange of views. The discussions revealed that positions of delegations on this question continued to be considerably far apart from each other.

IV. CONCLUSIONS AND RECOMMENDATIONS

11. Although certain outstanding issues continued to remain in the "traditional radiological weapons subject matter", the extensive discussions and intensive negotiations in Group A have further clarified many of the problems involved and would pave the way for future work on the subject. The substantive examination of the question of prohibition of attacks against nuclear facilities in Group B was considered useful and necessary and to have led to a better comprehension of the problems. The various positions of delegations, especially as to the scope of prohibition and legal aspects of the issue, were clarified. The discussion contributed considerably to the examination of common approaches and of potential activities of the Group in the future.

12. It was recognized that the "traditional radiological weapons subject matter" and the question of prohibition of attacks against nuclear facilities were important and that these issues needed solution. The Committee on Disarmament could continue to be the most appropriate forum to deal with them.

13. The Ad Hoc Working Group agreed to recommend to the Committee on Disarmament to re-establish an ad hoc working group at the beginning of its 1984 session to continue its work and in that context to review and assess how best to make progress on the subject matter.

ANNEX I

COMMITTEE ON DISARMAMENT

Ad Hoc Working Group on
Radiological Weapons
Group A

CD/RW/CRP.21/Rev.1
9 August 1983

Original: ENGLISH

REPORT OF GROUP A

1. As requested by the Chairman of the Ad Hoc Working Group on Radiological Weapons on 8 April 1983, Group A has considered the subject of radiological weapons in the "traditional" sense. A separate group was requested to deal with the question of prohibition of military attacks on nuclear facilities. Group A held 12 meetings during the course of this session. The purpose of Group A, as defined by the Chairman, was to "...try to solve the still outstanding substantive issues and leave for the time being the question of the linkage between them."

2. At its initial meeting on 11 April 1983, Group A decided on a working method whereby there would be substantive discussion of four outstanding issues: the question of a definition of radiological weapons; the question of an appropriate article in the treaty regarding peaceful uses; the question of undertakings and obligations of states in the related field of nuclear disarmament; and the question of compliance provisions. The Co-ordinator proposed, and the Group agreed, that negotiations should be held on these issues, based on all existing proposals as well as suggested compromise texts which the Co-ordinator would prepare and present to the Group, in order to arrive at accommodations. Group A would attempt to find consensus and to forward to the full RW Working Group an overall treaty text.

3. Based on previously submitted consolidated texts and all relevant proposals, Group A considered each of the four outstanding issues. In this context, Group A took note of and expressed appreciation for the efforts of previous chairmen of the Radiological Weapons Working Group, Ambassador Komives of Hungary and Ambassador Wegener of the Federal Republic of Germany. During the course of these deliberations, the Co-ordinator submitted, on his own responsibility, several suggestions for compromise (CD/RW/CRP.20) which were in turn discussed by the Group.

4. Differences on matters of substance remain. On 3 August 1983, the Co-ordinator prepared a consolidated negotiating text of a radiological weapons treaty (CD/RW/CRP.20/Rev.1) and submitted it to the Group. The purpose of the Co-ordinator's text was to reflect in a single document the state of the negotiations, including areas of agreement and disagreement. The Co-ordinator pointed out that the text contained internal brackets and in some cases alternative language. This method had been employed not to indicate agreement on the unbracketed portion of the text but, rather, to highlight key issues upon which subsequent negotiations should focus.

5. The Group considered the Co-ordinator's text. There was no agreement on the text, but the Group agreed that the Co-ordinator forward it, along with this report, to the Radiological Weapons Working Group, it being understood that the text was prepared on his own responsibility.

CD/414
Annex to ANNEX I
page 1

Annex to ANNEX I

CD/RW/CRP.20/Rev.1
3 August 1983
Original: ENGLISH

COMMITTEE ON DISARMAMENT
Hoc Working Group on
Biological Weapons
Group A

Submission by the Co-ordinator

Attached, for consideration of Group A, is a draft Treaty Prohibiting Biological Weapons, which has been prepared following consultations with delegations, as agreed at the meeting of Group A on 8 July 1983. The draft includes provisions regarding verification and consultation/compliance procedures which it had not been possible to include in CD/RW/CRP.20.

Attachment: as stated.

TREATY PROHIBITING RADIOLOGICAL WEAPONS

The States Parties to this Treaty,

Determined to strengthen international peace and security and to preserve mankind from the danger of new means of warfare,

Desiring to contribute to the cause of halting the arms race and recognizing that an agreement on the prohibition of radiological weapons would contribute to this end,

[Affirming the obligation of all States] [Determined] to pursue negotiations in good faith on effective measures relating to the prohibition of recognized weapons of mass destruction and to bring about general and complete disarmament under strict and effective international control,

Reaffirming in this regard the urgency of the pursuit and early conclusion of negotiations on effective measures aimed at the cessation of the nuclear arms race and nuclear disarmament,

Noting the provisions contained in other agreements relating to this objective,

Conscious that the use of [any form of] radiological weapons could have devastating consequences for mankind,

Stressing therefore the particular importance of accession to this Treaty by the greatest possible number of States,

[Affirming the principle that the benefits of peaceful applications of radioactive materials should be available to all States Parties to this Treaty, with due consideration for the needs of the developing countries, and recognizing the need for peaceful uses of sources of radiation from radioactive decay in different fields of human activities,]

Recalling that the General Assembly of the United Nations has urged the prohibition of the development, production, stockpiling, and use of radiological weapons,

Have agreed as follows:

Article I

1. Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, transfer, or use radiological weapons. For the purposes of this Treaty, the term "radiological weapon" means:

(a) Any device, including any weapon or equipment, specifically designed to employ radioactive material by disseminating it to cause destruction, damage, or injury by means of the radiation produced by the decay of such material;

(b) Any radioactive material specifically [designed] for employment, by its dissemination, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

2. Each State Party to this Treaty also undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material to cause destruction, damage, or injury by means of the radiation produced by the decay of such material, whether or not such material is specifically defined as a radiological weapon in paragraph 1 of this article.

3. Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which the States Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs 1 and 2 of this article.

Article II

1. Each State Party to this Treaty undertakes to contribute [to the fullest possible extent] [fully] to the strengthening of international co-operation in the peaceful uses of radioactive materials and of sources of radiation from radioactive decay[, and to the development of adequate measures of protection for all States against harmful effects of radiation].

2. Each State Party to this Treaty undertakes to facilitate, and has the right to participate in, the [fullest possible] [full] exchange of equipment, materials, and scientific and technological information regarding the peaceful uses referred to in paragraph 1 of this article, taking into account the needs of the developing countries.

3. Nothing in this Treaty shall be interpreted as affecting the inalienable right of the States Parties to this Treaty to develop and apply their programmes for the peaceful uses of nuclear energy and to international co-operation in this field[, consistent with the need to prevent the proliferation of nuclear weapons]; and no provisions of this Treaty shall hinder the use of sources of radiation from radioactive decay for peaceful purposes, in accordance with generally recognized principles and applicable rules of international law concerning such use.]

Article III

Each State Party to this Treaty undertakes to prevent loss of and to prohibit and prevent diversion to radiological weapons of radioactive materials that might be used for such weapons.

Article IV

Each State Party to this Treaty undertakes, in accordance with its constitutional procedures, to take any measures which it considers necessary to prohibit and prevent any activity in violation of the provisions of the Treaty anywhere under its jurisdiction or control.

Article V

[1. The provisions of this Treaty shall not apply to nuclear explosive devices or to radioactive material produced by them].

2. Nothing in this Treaty shall be interpreted as in any way limiting or detracting from any existing rules of international law applicable in armed conflict or limiting or detracting from obligations assumed by the States Parties under any other relevant international agreement.

[Article V bis]

The States Parties to this Treaty undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons, and the achievement of nuclear disarmament.]

Article VI

1. The States Parties to this Treaty undertake to consult one another and to co-operate in solving any problems which may be raised in relation to the objectives of, or in the application of the provisions of, the Treaty.

2. Consultation and co-operation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a consultative committee and a fact-finding panel as provided for in article VII of this Treaty.

3. The States Parties to this Treaty shall exchange to the fullest possible extent, bilaterally or multilaterally, information deemed necessary to provide assurance of fulfilment of their obligations under the Treaty.

Article VII

1. For the purpose of effective fulfilment of paragraph 2 of article VI of this Treaty, a consultative committee and a standing fact-finding panel shall be established. Their functions and rules of procedure are established in Annexes I and II, respectively, which constitute integral parts of the Treaty.

2. Any State Party to this Treaty which has reasons to believe that any other State Party may not be in compliance with the provisions of the Treaty, or which has concerns about a related situation which may be considered ambiguous, and is not satisfied with the results of the consultations provided for under article VI of the Treaty, may request the Depositary to initiate an inquiry to ascertain the facts. Such a request should include all relevant information, as well as all possible evidence supporting its validity.

3. For the purposes set forth in paragraph 2 of this article, the Depositary shall convene as soon as possible, and in any case within 10 days of the receipt of a request from any State Party, the standing fact-finding panel established pursuant to paragraph 1. of this article.

4. If the possibilities for fact-finding pursuant to paragraphs 2 and 3 of this article have been exhausted without resolution of the problem, [five or more States Parties] [any State Party] may request the Depositary to convene a meeting of the consultative committee of States Parties to consider the matter.

5. Each State Party to this Treaty undertakes to co-operate to the fullest possible extent with the consultative committee and with the fact-finding panel with a view to facilitating their work.

[6. Each State Party to this Treaty undertakes to provide assistance, in accordance with the provisions of the Charter of the United Nations, to any State Party to the Treaty which has been harmed or is likely to be harmed as a result of violation of the Treaty.]

[7. The provisions of this article shall not be interpreted as affecting the rights and duties of States Parties under the Charter of the United Nations, including bringing to the attention of the Security Council concerns about compliance with this Treaty.]

Article VIII

1. Any State Party to this Treaty may propose amendments to the Treaty. The text of any proposed amendment shall be submitted to the Depositary, who shall promptly circulate it to all States Parties.

[2. Any State Party proposing amendments to this Treaty may request the Depositary to seek the views of the States Parties on whether a conference should be convened to consider the proposal. Thereupon, if requested to do so by a majority of the States Parties, the Depositary shall convene a conference to which he shall invite all States Parties to consider such a proposal.]

3. An amendment shall enter into force for all States Parties to this Treaty which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of the States Parties. Thereafter, it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Article IX

1. This Treaty shall be of unlimited duration.

2. Each State Party to this Treaty shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties[, and] to the Depositary[, and to the United Nations Security Council] three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article X

1. [Five] [Ten] years after entry into force of this Treaty, a conference of States Parties shall be convened by the Depositary to review the [scope and] operation of the Treaty, with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized [and to consider any proposals for amendments then pending]. Such review shall take into account any new scientific and technological developments [likely to affect the provisions of] [relevant to] the Treaty. [States [not Parties] [signatories] to the Treaty shall be invited to the conference as observers.]
2. At intervals of five years thereafter, a majority of States Parties may obtain, by submitting a proposal to this effect to the Depositary, the convening of further conferences with the same objectives.
3. If no review conference has been convened within 10 years following the conclusion of the previous review conference, the Depositary shall solicit the views of all States Parties on the holding of such a conference. If one-third or 10 of the States Parties, whichever number is less, respond affirmatively, the Depositary shall take immediate steps to convene the conference.

Article XI

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.
2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
3. This Treaty shall enter into force upon the deposit of instruments of ratification by [fifteen] [twenty] governments in accordance with paragraph 2 of this article.
4. 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 date of the deposit of their instruments of ratification or accession.
5. The Depositary shall 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 and of any amendments thereto, as well as of the receipt of other notices.
6. This Treaty shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

Article XII

This Treaty, of which the English, Arabic, Chinese, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to the governments of the signatory and acceding States.

ANNEX I

[Consultative Committee]

1. The consultative committee of States Parties[, in addition to establishing the fact-finding panel as provided for in annex II,] shall undertake to resolve any problem which may be raised by the [States Parties] [State Party] requesting a meeting of the committee. For this purpose, the assembled States Parties shall be entitled to request and receive any information which a State Party is in a position to communicate.
2. The work of the consultative committee shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this annex. The committee shall [decide procedural questions relative to the organization of its work] [take decisions], where possible by consensus, but otherwise by a majority of those present and voting. [There shall be no voting on matters of substance.] The chairman shall have no vote.
3. Any State Party may participate in the work of the consultative committee. Each representative on the committee may be assisted at meetings by advisers.
4. The Depositary or his representative shall serve as chairman of the committee.
5. The consultative committee shall be convened by its chairman[:
 - (a) within 30 days after entry into force of this Treaty for the purpose of establishing the standing fact-finding panel;
 - (b)] as soon as possible and in any case within 30 days after a request for a meeting pursuant to paragraph 4 of article VII of the Treaty.
6. Each State Party shall have the right, through the chairman, to request from States and from international organizations such information and assistance as the State Party considers desirable for the accomplishment of the committee's work.
7. A summary of any [problem-solving] meeting, incorporating all views and information presented during the meeting, shall be prepared. The chairman shall distribute the summary to all States Parties.

ANNEX II

[Fact-Finding Panel]

1. The standing fact-finding panel shall undertake to make appropriate findings of fact and provide expert views relevant to any problem referred to it by the Depositary pursuant to paragraph 3 of article VII of this Treaty. [Pursuant to paragraph 5 of article VII of the Treaty, the fact-finding panel may carry out on-site investigations when necessary.]

[2. The fact-finding panel shall be composed of not more than 15 members representing State Parties:

(a) Ten members shall be appointed by the [chairman] [consultative committee] after consultation with States Parties. In selecting these members due regard shall be given to ensuring an appropriate geographic balance. Members shall be named for a two-year period, with five members being replaced each year;

(b) In addition, those permanent members of the United Nations Security Council who are parties to the Treaty shall also be represented on the fact-finding panel.]

[2. The fact-finding panel shall be composed of not more than (blank) members representing States Parties. Members of the initial panel shall be appointed by the [chairman, after consultation with States Parties,] [consultative committee] at its first meeting, one-third being named for one year, one-third for two years, and one-third for three years. Thereafter all members shall be named for a three-year period by the chairman [of the consultative committee, following principles decided by the committee during its first meeting and] after consultation with States Parties. In selecting the members, due regard shall be given to ensuring an appropriate geographical balance.]

3. Each member may be assisted by one or more advisers.

4. The Depositary or his representative shall serve as chairman of the panel[, unless the panel decides otherwise under the procedures established in paragraph 5 of this annex].

5. The work of the fact-finding panel shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this annex. [At the first meeting of the panel, to be held not later than 60 days after its establishment [by the consultative committee], the Depositary shall submit recommendations, based on consultations with States Parties and signatories, as to the organization of the work of the panel, including any necessary resources.] [The panel shall decide procedural questions relative to the organization of its work, where possible by consensus, but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.] [The panel shall take decisions, where possible by consensus, but otherwise by a majority of those present and voting.] The chairman shall have no vote.

6. Each member shall have the right, through the chairman, to request from States and from international organizations such information and assistance as the member considers desirable for the accomplishment of the work of the panel.

7. The State Party requesting the inquiry and any State Party against which the inquiry is directed shall have the right to [participate in the work of the panel] [be represented at meetings but may not take part in decisions], whether or not they are members of the panel.

8. The fact-finding panel shall, without delay, transmit to [the Depositary] [all States Parties] a report on its work, including its findings of fact and incorporating all views and information presented to the panel during its proceedings[.] [, together with such recommendations as it may deem appropriate. If the panel is unable to secure sufficient data for factual findings, it shall state the reasons for that inability.] [The Depositary shall distribute the report to all States Parties.]

ANNEX II

COMMITTEE ON DISARMAMENT

Working Group on
Radiological Weapons

CD/RW/CRP.22/Rev.2
12 August 1983

Original: ENGLISH

B

REPORT OF GROUP B ON THE QUESTION OF PROHIBITION
OF ATTACKS AGAINST NUCLEAR FACILITIES

I. INTRODUCTION

In accordance with the decision adopted by the Ad Hoc Working Group on Radiological Weapons at its first meeting on 8 April 1983, Group B was established with the purpose of considering the question of prohibition of attacks against nuclear facilities with the understanding that the question of the relationship between this issue and the "traditional radiological weapons subject" would be left aside for the time being.

In carrying out of its task, Group B took into account all relevant proposals submitted on the subject and held three meetings between 18 and 28 April, under the chairmanship of Mr. Yuri K. Nazarkin, representative of the Union of Soviet Socialist Republics, during the first part of 1983 session. The Group devoted its attention to the consideration of various issues involved in the subject such as the legal question, zones, as well as compliance and verification. At the conclusion of the first part of the 1983 session, the Co-ordinator submitted a progress report on the work of Group B of the Ad Hoc Working Group on Radiological Weapons at its second meeting held on 29 April 1983, as contained in Annex II of document CD/RW/WP.44.

During the second part of 1983 session, Group B held 14 meetings between 10 June and 12 August under the Co-ordination of Mr. Boris P. Prokofiev, representative of the Union of Soviet Socialist Republics. At the initial stage of this period, the Group decided, upon the suggestion of the Co-ordinator, to continue to concentrate its efforts on those issues which have been considered in the first part of the session.

In the course of its deliberations the Group also considered the various proposals, suggestions and commentaries contained in the documents and working papers submitted to the Committee and its subsidiary bodies before and during the 1983 session. The list of these documents is contained in document CD/RW/CRP.24, as annexed to the report of the Ad Hoc Working Group. In addition to these documents, the Group took into consideration the proposals made and the views expressed by delegations on the question of prohibition of attacks against nuclear facilities in the Committee on Disarmament and the regular and special sessions of the United Nations General Assembly. In this connection a number of delegations stressed the importance of the question of ensuring the safe development of nuclear energy as proposed at the thirty-seventh session of the United Nations General Assembly, which was the other side of the problem of prohibition of attacks against nuclear facilities.

II. SUBSTANTIVE DISCUSSIONS ON THE SUBJECT

Objectives

5. The view was widely held that there was a need for effective international legal measures prohibiting attacks against nuclear facilities because such attacks could result in mass destruction. In this connection, a view was expressed that attacks on certain nuclear facilities might lead to such a destructive effect as that of a nuclear explosion. There was also an exchange of views concerning the precise nature of the objective to be pursued, namely, whether the purpose should be:

- to prohibit attacks on such facilities as a form of radiological weapon or, more precisely, as a means of radiological warfare;
- to avoid effects of weapons of mass destruction;
- to strengthen the existing legal protection of such facilities;
- to ensure the safe development of nuclear power energy; or
- a combination of the objectives mentioned above.

While many delegations held that the objective, in keeping with the mandate of the Working Group, should be the avoidance of effects of mass destruction, no consensus could be reached on this issue. Some delegations argued that approaches which relied on the concept of an attack on a nuclear facility being equivalent to the use of a radiological weapon, or on concepts of "mass destruction" were unlikely to be fruitful. They suggested that a more practical approach should be adopted which would try to establish the primary purpose of any further ban of attacks on nuclear facilities, determine practical limits to the scope of any new ban and from these considerations determine how far existing instruments were already adequate in this respect. Other delegations stated that attempts to thwart negotiations on a subject of such high importance to international community should also not be allowed to be fruitful. They pointed out that avoidance of possible mass destruction through radiological warfare by attacks on nuclear facilities was indeed the basis as well as the primary purpose of the Group's work. The existing instruments were entirely insufficient in this respect.

Scope of prohibition

6. There was general understanding among the delegations that the question of a definition of the scope of the ban, or the kind of nuclear facilities to be protected, constituted one of the key issues of a future international instrument. In this connection a number of specific proposals and suggestions were made regarding categories or types of nuclear facilities to be covered by a possible agreement. Several main points of views were expressed in that regard and it was suggested that the prohibition of attacks should apply to:

- All nuclear facilities;
- All nuclear facilities in non-nuclear-weapon developing States;

- Civilian nuclear facilities only;
- Civilian nuclear facilities above a specified power threshold for nuclear reactors and above a specified level of quality and quantity of radioactive materials for other facilities;
- All nuclear facilities subject to IAEA safeguards system.

It was generally understood, however, that naval vessels, submarines, space vehicles as well as other devices having nuclear installations and designed as weapons systems would not be considered within the context of "nuclear facilities" as referred to under the subject of prohibition of attacks against nuclear facilities.

7. In connection with the scope of the ban, some delegations drew attention to the fact that there was also a problem of dual-purpose nuclear facilities, that is, facilities which can be used both for peaceful and for military purposes, and a problem of distinguishing between military and civilian nuclear facilities. Other delegations stated that the difficulty in strictly distinguishing between military and civilian nuclear facilities was another important reason for all nuclear facilities to be protected. A view was expressed in this regard that an effective existing criterion to identify nuclear facilities for peaceful purposes is the IAEA safeguards system and that therefore among nuclear facilities for peaceful purposes at least those facilities under the IAEA safeguards should be included in the scope of protection. Other delegations considered that this criterion was not sufficient.

8. Some delegations stated that all nuclear facilities in the non-nuclear-weapon States were civilian facilities, and at least, these should all enjoy protection from attacks. Other delegations held that the scope of any agreement should not automatically include all nuclear facilities whether located in non-nuclear-weapon States or nuclear-weapon States. Further, a view was also expressed that the concept of "generic danger" might be applied when identifying the types of facilities to be protected, and that that concept might also be used to determine the points in time when protection should begin and cease to operate.

9. It was suggested that the scope of a possible future treaty could very well be limited to nuclear power and research reactors, nuclear fuel production and reprocessing plants as well as fissionable materials, spent fuel and high level waste storage.

Legal aspects of the question

10. The Group examined some legal aspects of the problem of prohibition of attacks against nuclear facilities. The discussion centered on questions whether certain relevant provisions in the existing international instruments, in particular Additional Protocol I (1977) to the Geneva Conventions of 1949, are adequate, as well as possible types of an agreement to be elaborated. In this connection some delegations stated that the existing international law provided for a substantial protection of the nuclear facilities in question, and that they had not been convinced of the necessity for additional protection. Other delegations held that since the protection covered by the Additional Protocol I was inadequate in scope, contained a number of reservations and allowed a subjective interpretation of its relevant provisions by military commanders on a

tactical level, there was a clear need for a new international agreement, for the necessary protection of nuclear facilities. In the course of discussion the question of the application of the ENMOD Convention to the issue of military attacks on civilian nuclear facilities was also raised.

Zones

11. The Group also discussed the rationale of establishing protective zones around nuclear facilities to be protected. In this context zones based on circles with a definite radius were mentioned. However, substantial doubts were expressed as to the feasibility and usefulness of the concept of protective zones, especially in view of the existing differences in the design, typical inventory and location of the various facilities to be protected. Another view was held that there were difficulties with that concept in the case of nuclear power stations. It was suggested that, instead of protective zones, a provision should be included that an attacker should assume absolute liability if severe radiological consequences occur. The problem of clandestine use of protective zones for military purposes was also touched upon.

Compliance and verification

12. With regard to matters concerning compliance and verification aspects of a possible agreement it was argued that consideration of those issues would depend to a great degree on the scope of prohibition. It was felt in this connection that solution of this problem would be possible only after the scope of the ban had been determined. Some delegations pointed out that the question of verification and compliance should be seen in its proper perspective and in seeking a ban on attacks on nuclear facilities it is the prohibited action, not the mechanism of control on the potential victim, which ought to be the subject of verification and compliance. Other delegations considered this view somewhat over-simplified. A view was also held that the issue of compliance and verification was irrelevant since it was sufficient to establish the fact of an attack. Some delegations were of the opinion that if the scope of the agreement would be limited to those facilities which were placed under the IAEA safeguards system the control procedure could be much simplified and made more efficient with respect to all such facilities, except those in the possession of nuclear-weapon States. Other delegations believed that such an approach was discriminatory and had no relevance to the question of compliance and verification.

III. CONCLUSIONS

13. In spite of differences of opinion among delegations on specific matters, it was generally recognized that the question of prohibition of attacks against nuclear facilities was an important issue which needed solution and that it was also a complex problem. The exchange of views on the subject in the Group was considered as necessary and useful. It helped to clarify the various positions of delegations, in particular the scope of prohibition and the relevant legal questions.—It also contributed substantially to the examination of possible common approaches and potential main avenues of the activities of the Group in the future.

ANNEX III

COMMITTEE ON DISARMAMENT

Ad Hoc Working Group on
Radiological Weapons

CD/RW/CRP.24

10 August 1983

Original: ENGLISH

A list of proposals regarding the question of prohibition
of attacks against nuclear facilities

1. CD/345 A group of socialist countries: Ensuring the Safe Development of Nuclear Energy.
2. CD/RW/WP.3 Canada: Comments on major elements of a treaty prohibiting the development, production stockpiling and use of radiological weapons.
3. CD/RW/WP.6 Sweden: Proposals for Articles I, II and III of a treaty prohibiting radiological warfare including the development, production, stockpiling and use of radiological weapons.
4. CD/RW/WP.19 Sweden: Memorandum on certain aspects of a convention prohibiting radiological warfare.
5. CD/RW/WP.23 Group of 21: Working Paper on certain elements of the Convention on the Prohibition.
6. CD/RW/WP.25 Chairman's Statement (9 March 1982).
7. CD/RW/WP.25/Add.1/Rev.1 Chairman's Amended Proposal for the organization of work during the opening.
8. CD/RW/WP.33 Chairman's Summary of suggested issues of initial relevance relating to protection of nuclear facilities for discussion during Working Group meetings on 26 March and 2 April 1982.
9. CD/RW/WP.34 Sweden: Memorandum of certain aspects of a convention prohibiting radiological warfare.
10. CD/323 (CD/RW/WP.37) Japan: Working Paper on prohibition of attacks against nuclear facilities.
11. CD/331 (CD/RW/WP.40) Federal Republic of Germany: Working Paper on issues relating to a prohibition of attacks against nuclear facilities in the framework of a radiological weapons treaty.
12. CD/RW/WP.45 and Corr.1 Sweden: Compliance and Verification.
13. CD/RW/WP.47 United Kingdom: Working Paper on the prohibition of attacks on nuclear facilities.

14. CD/RW/WP.50

A compilation of types or categories of nuclear facilities to be considered (Prepared by the Secretariat)

15. CD/RW/CRP.13

The Netherlands: Proposal on invitation to the International Atomic Energy Agency.

16. CD/RW/CRP.16

Pakistan: Proposal on definition of facilities to be protected.

CONFERENCE ON DISARMAMENT

CD/530
CD/RW/WP.52
3 August 1984
Original: ENGLISH

Ad Hoc Committee on
Radiological Weapons

WORKING PAPER: SWEDEN

Proposals for parts of a Treaty Prohibiting Radiological Weapons and the Release or Dissemination of Radioactive Material for Hostile Purposes

In 1979 the Soviet Union and the United States of America presented a joint draft treaty prohibiting radiological weapons. In June 1980 Sweden proposed that the scope of the draft treaty should be broadened to include also the prohibition of radiological warfare (CD/RW/WP.6). Since then extensive discussions have taken place in the CD penetrating the issues involved in great depth. Much work has been done and a great number of detailed proposals have been put forth. This process has deepened the understanding of the issues and has therefore been of great value, while at the same time bringing into the picture a number of complicated problems not originally foreseen. On some aspects progress has been made while on others the problems have tended to become ever more intricate. Here solutions have yet to be found. Time has now come to revert to a search for simple and straightforward formulas based on the accumulated insight acquired during the last couple of years' work and on a genuine willingness by all to compromise and negotiate past positions.

In this spirit Sweden has endeavoured to elaborate new text proposals concerning some of the major still outstanding problems. A fundamental idea on which these proposals are based is that the treaty should prohibit the use of radioactive material for hostile purposes, be it by using radiological weapons or by attacking nuclear facilities in such a way that radioactive material is released. Working papers and proposals from individual countries have been carefully considered and the progress already made has been taken into account. In elaborating the new proposals the text put forward in August 1983 (CD/421) by the co-ordinator of Group A of the Ad Hoc Working Group on Radiological Weapons, Mr. Busby, has served as the basis. Changes in that text have only been made as regards some of the key issues where Sweden feels that progress has so far been too limited or non-existent.

GE.84-64555

The new draft proposals presented here are an honest attempt to find compromise solutions which could be acceptable to all as a basis for serious negotiations. Just because the overriding concern has been to find a compromise basis for the continued negotiations some changes in earlier Swedish positions have been made.

For the sake of facilitating the study of the new proposals they are presented below parallel with the text of the co-ordinator of Group A in 1983 as presented in CD/421.

* * *

Preambular text

In the preambular part only such changes have been made which are logical consequences of the substantial changes proposed in the new Articles I, II and III or prompted by reformulations elsewhere in the text.

1983 Report from Group A,
Co-ordinator's text (CD/421)

Swedish proposals

"TREATY PROHIBITTING RADIOLOGICAL
WEAPONS"

TREATY PROHIBITTING RADIOLOGICAL
WEAPONS AND THE RELEASE OR
DISSEMINATION OF RADIOACTIVE
MATERIAL FOR HOSTILE PURPOSES

"The States Parties to this Treaty,
"Determined to strengthen international
peace and security and to preserve
mankind from the danger of new means
of warfare,

"Desiring to contribute to the cause of
halting the arms race and recognizing
that an agreement on the prohibition
of radiological weapons would contribute
to this end,

Desiring to contribute to the cause
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of radioactive material for hostile
purposes would contribute to this
end,

"(Affirming the obligation of all States)
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"Noting the provisions contained in
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"Conscious that the use of (any form
of) radiological weapons could have
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radiological weapons and the release
or dissemination of radioactive
material could have devastating
consequences for mankind,

"Stressing therefore the particular
importance of accession to this Treaty
by the greatest possible number of
States,

"(Affirming the principle that the
benefits of peaceful applications of
radioactive materials should be available
to all States Parties to this Treaty,
with due consideration for the needs of
the developing countries, and recognizing
the need for peaceful uses of sources of
radiation from radioactive decay in
different fields of human activities,)

Recognizing the need for peaceful
uses of sources of radiation from
radioactive decay in different fields
of human activities, and the need for
international co-operation in this
field, and affirming that the benefits
of peaceful applications of radioactive
materials should be available to all
States Parties to this Treaty, with
due consideration for the needs of
the developing countries.

"Recalling that the General Assembly of the United Nations has urged the prohibition of the development, production, stockpiling and use of radiological weapons,

"Have agreed as follows:

* * *

Articles I, II, III and Annex III

Only minor adjustments have been made in the text of the Co-ordinator's Article I. However, it has been supplemented with new additional Articles. The new Articles I, II and III are proposed to take the place of the Co-ordinator's Article I.

In the proposed new Article I the scope of the prohibition of use of radioactive material for hostile purposes has been broadened to encompass also release or dissemination caused by attacks on nuclear facilities.

These facilities have been defined in Article II:b. A number of very detailed proposals and counterproposals on different aspects of this question have been thoroughly discussed in the CD, but so far no agreement on suitable criteria has been reached. Believing that preventing mass destruction should be the overriding concern, Sweden proposes criteria based on the nuclear facilities' potential to cause mass destruction through the release or dissemination of radioactivity, if attacked. An attempt has been made to formulate as simple a model as possible with set threshold limits for the different kinds of facilities.

Furthermore, it is proposed in Articles II and III that in order for a nuclear facility to qualify for protection under the Treaty it should be carefully identified, registered and open to inspection. A simple procedure to this end is proposed in a new Annex III. A special register of the nuclear facilities in question maintained by the Depositary is envisaged, as well as a list at the Depositary's disposal of qualified experts whose services could be made available to undertake Inspection Missions. No changes in the procedures for verification and compliance with the Treaty as proposed in the Co-ordinator's text (Article VI, VII, Annexes I and II) will be needed.

For the sake of facilitating the study of these new proposals Annex III is here presented in conjunction with the Articles I-III.

1983 Report from Group A, Co-ordinator's text

"Article I

"1. Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, transfer, or use radiological weapons.

For the purposes of this Treaty,
the term 'radiological weapon'
means:

Swedish proposals

Article I

1. Each State Party to this Treaty undertakes never under any circumstances to release or disseminate radioactive material for hostile purposes causing destruction, damage, or injury by means of the radiation produced by the decay of such material, neither by using radiological weapons nor by attacking nuclear facilities.

2. Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, or transfer, radiological weapons.

3. Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which the States Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs 1 and 2 of this article.

Article II

For the purposes of this Treaty,
(a) The term "radiological weapons"
means:

"(a) Any device, including any weapon or equipment, specifically designed to employ radioactive material by disseminating it to cause destruction, damage, or injury by means of the radiation produced by the decay of such material;

"(b) Any radioactive material specifically (designed) for employment, by its dissemination, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

(i) Any device, including any weapon or equipment, specifically designed to employ radioactive material by disseminating it to cause destruction, damage, or injury by means of the radiation produced by the decay of such material;

(ii) Any radioactive material specifically designed for employment, by its dissemination, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

(b) The term "nuclear facilities" means nuclear facilities on land which are either

(i) Nuclear reactors designed for a thermal effect which could exceed 10 Megawatts;

(ii) Intermediate spent fuel storages designed for storing radioactive material exceeding 10^{18} Bq;

(iii) Reprocessing plants, or,

(iv) Waste deposits containing radioactive material exceeding 10^{18} Bq,

and which are included in a register maintained by the Depositary.

Article III

The Depositary shall maintain a register of nuclear facilities covered by the provisions of this

Treaty and shall transmit certified copies thereof to each State Party to the Treaty.

States Parties to the Treaty wishing to have nuclear facilities under their jurisdiction as specified in Article II:b included in this register shall for each such facility communicate to the Depositary a request for inclusion in the register. Such a request shall contain written information as specified in Annex III which constitutes an integral part of the Treaty.

Information contained in requests for the inclusion of nuclear facilities into the register shall be subject to verification, in accordance with procedures spelt out in Annex III.

"2. Each State Party to this Treaty also undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material to cause destruction, damage, or injury by means of the radiation produced by the decay of such material, whether or not such material is specifically defined as a radiological weapon in paragraph 1 of this article.

"3. Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which the States Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs 1 and 2 of this article.

(Replaced by the proposed Article I:1)

(This paragraph is identical with the proposed Article I:3)

ANNEX III

Register on nuclear facilities and
Inspection Missions

1. Upon receipt of a request for an inclusion in the register provided for in Article III of this Treaty the Depositary shall without delay satisfy himself that the nuclear facility or facilities concerned can be defined as such in accordance with Article II:b. To this end the requests for the inclusion of nuclear facilities in the register as stated in Article III of the Treaty shall contain the following written information:

- (a) Details on the exact geographical location of the nuclear facility/facilities,
- (b) Identification of the type of nuclear facility i.e. if it is a reactor, intermediary spent fuel storage, reprocessing plant or waste deposit,
- (c) Detailed specifications as applicable on:
 - (i) the thermal effect in Megawatts for which a nuclear reactor is designed,
 - (ii) the capacity (in Bq) for which an intermediate spent fuel storage is designed,
 - (iii) the content (in Bq) of a waste deposit.

2. The Depositary shall in consultation with the requesting State initiate an Inspection Mission. An Inspection Mission, constituted by one expert or more, shall by on-site inspection verify that the facility or facilities concerned are nuclear facilities as defined under Article II:b.

3. The Depositary shall, with the co-operation of States Parties to the Treaty, compile and maintain a list of qualified experts, whose services could be made available to undertake such Inspection Missions.

4. The Depositary shall include in the register the requested details on the facilities concerned as soon as the Inspection Mission has confirmed that the relevant definition under Article II:b is applicable, and shall immediately notify States Parties to the Treaty of any new inclusion in the register.

* * *

Article IV

Following the proposals above, the Co-ordinator's Article II dealing with different aspects of peaceful uses of radioactive materials is numbered Article IV in the Swedish proposal.

Bearing in mind that the main purpose of this paper is to bring about a compromise, acceptable as a basis for further negotiations of a treaty prohibiting radiologically caused mass destruction as well as the difficulties involved in so doing, the Swedish proposal only includes undertakings falling directly within the scope of such a prohibition. This is reflected in the following:

1983 Report from Group A,
Co-ordinator's text

Swedish proposals

"(Article II)

"1. Each State Party to this Treaty undertakes to contribute (to the fullest possible extent) (fully) to the strengthening of international co-operation in the peaceful uses of radioactive materials and of sources of radiation from radioactive decay (, and to the development of adequate measures of protection for all States against harmful effects of radiation).

"2. Each State Party to this Treaty undertakes to facilitate, and has the right to participate in, the (fullest possible) (full) exchange of equipment, materials, and scientific and technological information regarding the peaceful uses referred to in paragraph 1 of this article, taking into account the needs of the developing countries.

"3. Nothing in this Treaty shall be interpreted as affecting the inalienable right of the States Parties to this Treaty to develop and apply their programmes for the peaceful uses of nuclear energy and to international co-operation in this field (, consistent with the need to prevent the proliferation of nuclear weapons); and no provisions of this Treaty shall hinder the use of sources of radiation

Article IV

1. Each State Party to this undertakes to contribute to the fullest possible extent to the development of adequate measures of protection for all States against harmful effects of radiation.

2. Nothing in this Treaty shall be interpreted as affecting the inalienable right of the States Parties to this Treaty to develop and apply their programmes for the peaceful uses of nuclear energy and to international co-operation in this field, and no provisions of this Treaty shall hinder the use of sources of radiation from radioactive decay for peaceful purposes, in accordance with generally recognized principles and applicable rules of international law concerning such use.

from radioactive decay for peaceful purposes, in accordance with generally recognized principles and applicable rules of international law concerning such use.)

* * *

Articles V and VI

The Co-ordinator's Articles III and IV would as a consequence of the above proposals be numbered as Articles V and VI.

* * *

Article VII

This article is based on the Co-ordinator's two Articles V and V bis. Again the proposed changes are to be seen as an attempt to concentrate only on issues falling within the immediate scope of the proposed prohibitions.

1983 Report from Group A,
Co-ordinator's text

Swedish proposals

Article V

(1. The provisions of this Treaty shall not apply to nuclear explosive devices or to radioactive material produced by them.)
2. Nothing in this Treaty shall be interpreted as in any way limiting or detracting from any existing rules of international law applicable in armed conflict or limiting or detracting from obligations assumed by the States Parties under any other relevant international agreement.

Article VII

1. The provisions of this Treaty shall not apply to nuclear explosive devices or to radioactive material produced by them.
2. Nothing in this Treaty shall be interpreted as in any way legitimizing the use of nuclear weapons or detracting from obligations to prevent the use or threat of use of such weapons and the achievement of nuclear disarmament, nor as in any way limiting or detracting from any existing rules of international law applicable in

(Article V bis

The States Parties to this Treaty undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons, and the achievement of nuclear disarmament.)

armed conflict or limiting or detracting from obligations assumed by the States Parties under any other relevant international agreement.

* * *

Articles VIII-XIV

No specific proposals are made concerning the Co-ordinator's Articles VI-XII. However, they would be numbered VIII-XIV.

* * *

Annexes I and II

No new proposals.

* * *

Annex III

A new Annex III is proposed, the text of which is presented in its substantial context, page 9.

* * *

REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 259th plenary meeting held on 17 April 1984, as contained in document CD/499, the Ad Hoc Committee on Radiological Weapons was established for the duration of the 1984 session with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of the 1984 session.

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At its 259th plenary meeting on 17 April 1984, the Conference on Disarmament appointed Ambassador Miloš Vejvoda of Czechoslovakia as Chairman of the Ad Hoc Committee. Mr. Victor Slipchenko, United Nations Department for Disarmament Affairs, served as Secretary of the Ad Hoc Committee.

3. The Ad Hoc Committee held 11 meetings from 15 June to 10 August 1984. In addition, the Chairman held a number of informal consultations with delegations.

4. At their request, the representatives of the following States not members of the Conference on Disarmament participated in the work of the Ad Hoc Committee: Finland, Norway and Spain.

5. In carrying out its mandate, the Ad Hoc Committee took into account paragraph 76 of the Final Document of the first special session of the United Nations General Assembly devoted to disarmament. It also took into consideration the relevant recommendations of the United Nations Disarmament Commission, in particular those adopted in connection with the Second Disarmament Decade in 1980. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Ad Hoc Committee took into account in particular resolution 38/189D of the General Assembly of 20 December 1983. Paragraphs 1 to 3 of that resolution read as follows:

"1. Requests the Conference on Disarmament to continue negotiations with a view to a prompt conclusion of the elaboration of a convention prohibiting the development, production, stockpiling and use of radiological weapons in order that it may be submitted to the General Assembly at its thirty-ninth session;

"2. Further requests the Conference on Disarmament to continue its search for a prompt solution to the question of prohibition of attacks on nuclear facilities, including the scope of such prohibition, taking into account all proposals submitted to it to this end;

"3. Takes note of the recommendation of the Ad Hoc Working Group on Radiological Weapons, in the report adopted by the Committee on Disarmament, to re-establish an Ad Hoc Working Group at the beginning of its 1984 session to continue its work and in that context to review and assess how best to make progress on the subject matter."

6. In addition to the documents of previous sessions, the Ad Hoc Committee had before it the following new documents for consideration:

- CD/530, dated 3 August 1984, submitted by Sweden, entitled "Proposals for parts of a Treaty Prohibiting Radiological Weapons and the Release or Dissemination of Radioactive Material for Hostile Purposes" (also issued as CD/RW/WP.52 of 18 June 1984)
- CD/RW/WP.53, dated 20 June 1984, submitted by the United Kingdom, entitled "A definition relevant to the prohibition of attacks on nuclear facilities"
- CD/RW/WP.54, dated 12 July 1984, submitted by Sweden, entitled "Notes from the intervention by Ambassador Ekéus on 21 June 1984 concerning criteria and definitions used in CD/RW/WP.52" (also issued as CD/RW/CRP.27)
- CD/RW/WP.55, dated 19 July 1984, submitted by Sweden, entitled "Answers to questions raised by the Federal Republic of Germany concerning the Swedish proposal for draft provisions prohibiting attacks on nuclear facilities contained in CD/RW/WP.52" (also issued as CD/RW/CRP.29)
- CD/RW/WP.56, dated 3 August 1984, submitted by Sweden, entitled "Notes from the intervention by the Swedish delegation on 1 August in the Ad Hoc Committee on Radiological Weapons concerning some definitions of nuclear facilities in document CD/530-CD/RW/WP.52"
- CD/RW/WP.57, dated 2 August 1984, submitted by the Chairman, entitled "Criteria and categories of nuclear facilities regarding the scope of prohibition of attacks against nuclear facilities"
- CD/RW/WP.58, dated 10 August 1984, submitted by the Federal Republic of Germany, entitled "Questions addressed to the Swedish Delegation with respect to the draft provisions regulating the prohibition of attacks in Document CD/RW/WP.52"

- CD/RW/CRP.25, dated 21 June 1984, entitled "Proposals by the Chairman for the items to be discussed in the Ad Hoc Committee on Radiological Weapons during the summer session"
- CD/RW/CRP.26, dated 6 July 1984, submitted by the Federal Republic of Germany, entitled "Questions addressed to the Swedish Delegation with respect to the draft provisions regulating the prohibition of attacks in Working Paper CD/RW/WP.52"
- CD/RW/CRP.28, dated 12 July 1984, entitled "Programme of work of the Ad Hoc Committee on Radiological Weapons"

III. WORK DURING THE 1984 SESSION

7. The Ad Hoc Committee on Radiological Weapons proceeded to review and assess how best to make progress on the subject matter entrusted to it. The Ad Hoc Committee agreed that during the 1984 session it would continue its substantive examination of questions relating to "traditional" radiological weapons subject matter and questions relating to prohibition of attacks against nuclear facilities, without setting up two subsidiary bodies to deal with these questions or prejudging the relationship between them.

8. In that context, the Ad Hoc Committee devoted two meetings to the continued review of the question of linkage between the two major issues before it. Although no delegation disputed the importance of those issues and the need for their solution, differences of approach persisted with regard to the procedure to be followed in resolving them as well as to the form of any eventual agreement. In the absence of consensus, the Ad Hoc Committee agreed to concentrate its work on the substance of the issues involved.

9. At its 5th meeting, on 12 July, the Ad Hoc Committee adopted the following programme of work for its 1984 session:

"Within the questions of the prohibition of radiological weapons in the "traditional" sense and the prohibition of attacks against nuclear facilities, the following problems should be discussed without prejudging the final positions of delegations as regards the "link"

between the two aspects of the issue:

- Definitions
- Scope
- Peaceful uses
- Cessation of the nuclear arms race and nuclear disarmament
- Compliance and verification".

10. The Ad Hoc Committee discussed and examined various documents, inter alia, those submitted to it during its 1984 session by the delegations of the Federal Republic of Germany (CD/RW/CRP.26), Sweden (CD/530, CD/RW/WP.54, 55 and 56) and the United Kingdom (CD/RW/WP.53). Many delegations held that the approach proposed by Sweden in its draft provisions of a treaty prohibiting radiological weapons and the release or dissemination of radioactive material for hostile purposes (CD/530) provided the best negotiating framework for making progress on all the major aspects of the issue and thus in the fulfilment of the Ad Hoc Committee's mandate. Other delegations, however, reaffirmed their conviction that proposals aimed at resolving the question of prohibition of attacks against nuclear facilities in the context of prohibition of radiological weapons could only result in a failure to make progress on either of them.

11. The Ad Hoc Committee devoted four meetings to the consideration of the questions of definitions and scope in accordance with its programme of work. With respect to these questions, it concentrated its work on consideration of criteria which would apply in determining which nuclear facilities might fall within the possible scope of a prohibition of attacks as well as on definitions of such facilities. In order to allow for a more structured discussion of that issue, the Chairman, upon request of some delegations, prepared a working paper (CD/RW/WP.57) which reflected some of the proposals made by delegations during the session in this regard. Proposals for scope and definitions contained in the Swedish proposal (CD/530) were examined. In particular, attention was focused on the criterion used, i.e. the potential to cause mass destruction for determining the four categories of facilities proposed to fall within the scope of the prohibition of attacks on nuclear facilities. The Ad Hoc Committee also discussed the suggested definitions, capacity thresholds and other possible delimitations as well as other related questions such as the distinction between military and non-military facilities, protective zones, physical identification (marking) of nuclear facilities, the definition of "attack", verification, legal and other aspects. The documents CD/RW/WP.53, 54, 55, 56 and CD/RW/CRP.26 were valuable contributions in this respect. With regard to

the definition of radiological weapons in the traditional sense, some delegations reaffirmed their views concerning the so-called "negative" or "positive" approach. Divergent views were also expressed on what should be considered a radiological weapon. While some delegations maintained that it should include radioactive material as well as devices and containers, other delegations held that radioactive material should not be included since any known radioactive material has a utility for civilian peaceful purposes, and that the term "specifically designed device and equipment" will be sufficient as the definition of a radiological weapon. In this connection a suggestion was made to the effect that the prohibition of configuration of radioactive material to weapon use might be envisaged. A number of delegations maintained that a definition of radiological weapons should not imply any restrictions on the use of radioactive material for peaceful purposes. They also held the view that such a definition should not provide a basis for any provision which might be interpreted as legitimizing nuclear weapons.

The exchange of views, which was generally considered to be useful and constructive, contributed to a better understanding of the substance as well as of the positions of various delegations. Although some divergences of views continued to exist, the deliberations revealed that more delegations than previously supported the criterion of mass destruction as the most appropriate one for the identification of facilities to be covered by the provisions of a prohibition of attacks on nuclear facilities.

12. With regard to the questions of peaceful uses and the cessation of the nuclear arms race and nuclear disarmament, delegations generally reaffirmed the views reflected in their earlier proposals to this end. Some delegations noted that the compromise formulae proposed by Sweden in its latest working paper could serve as a basis for an eventual agreement on those two outstanding questions. Other delegations, however, pointed out that a compromise should be sought in the context of all provisions of that paper which could not be considered separately. Several delegations emphasized the close link between the treaty on the prohibition of radiological weapons and the cessation of the nuclear arms race and nuclear disarmament. Some other delegations, however, reaffirmed their view that it would be unrealistic to expect States Parties to a future agreement on radiological weapons to undertake obligations which did not relate directly to its subject matter. It was noted in this connection that a "delineating provision" might be used in order

to find a solution to this problem. Some delegations reaffirmed the importance they attached to the issues of verification and compliance. In that context, they expressed the view that existing proposals on those issues were not sufficient and should therefore be further thoroughly examined. They regretted that the Ad Hoc Committee was not able to devote more attention to this problem during the session. Some delegations reiterated that, as provided in paragraph 31 of the Final Document of SSOD I, the question of verification had to be examined taking into account the scope of a convention. In their view, this factor had an obvious bearing on the nature of the verification provisions to be included in a convention. They reiterated that, in the case of the prohibition of attacks against nuclear facilities, the question at issue was only that of establishing the fact that an attack had occurred.

13. Some delegations expressed their regret that the work of the Committee had not concentrated more on the available draft texts, including the drafts submitted by the Chairmen of the two preceding annual sessions, as well as the Swedish proposals (CD/530), and that the work pattern had rather been one of a prolonged general debate. They also felt that, despite the efforts by the Chair, this had not only caused delegations to lose sight of certain common positions that had been achieved in the earlier sessions, but entailed the risk that the negotiations might altogether lose their earlier momentum. Other delegations on the contrary believed that the work of the Ad Hoc Committee was useful and helped to clarify further positions of delegations. More progress could not be achieved in view of the basic differences as to the framework for the solution of the two major issues. They also considered that due attention was paid to the existing draft texts, especially to the proposals by Sweden contained in CD/530. They further maintained that the provisions of the draft texts by the previous Chairmen could not be considered as reflecting common positions.

IV. CONCLUSIONS AND RECOMMENDATIONS

14. It was generally recognized that the discussion held during the session contributed to a better understanding of the issues involved as well as to a further search for their solution.

15. In view of the fact that the Committee's mandate was not fulfilled, it is recommended that the Conference on Disarmament should re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1985 session.

CONFERENCE ON DISARMAMENT

CD/533/Corr.1
24 August 1984

Original: ENGLISH

REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

CORRIGENDUM

On page 5, in line 5 of paragraph 12:

Delete the words "in its latest working paper" and insert "in CD/530".

GE.84-65067

CONFERENCE ON DISARMAMENT

CD/590
17 April 1985
ENGLISH ONLY

LETTER DATED 15 APRIL 1985 ADDRESSED TO THE SECRETARY-GENERAL
OF THE CONFERENCE ON DISARMAMENT BY THE PERMANENT REPRESENTATIVE
OF CANADA, TRANSMITTING A COMPENDIUM OF CD VERBATIM RECORDS AND
WORKING PAPERS ON RADIOLOGICAL WEAPONS 1/

I refer to my 4 April 1985 statement before the Conference on Disarmament in which I announced that I would be providing the Secretariat with copies of a two volume compendium of CD verbatim records and working papers submitted to the Conference on the subject of radiological weapons.

I am pleased to confirm that arrangements have been made for the delivery of 50 copies of the compendium to your documentation office. I would be grateful if you could ensure that a copy is distributed to each member delegation of the Conference on Disarmament. The extra copies are for your use and that of your staff.

Yours sincerely,

(signed) J. Alan Beesley,
Ambassador and Permanent
Representative

1/ A limited distribution of this document in English only has been made to the members of the Conference on Disarmament.

GE.85-61110

PROHIBITION OF RADIOLOGICAL WEAPONS

AND

PROHIBITION OF ATTACKS AGAINST NUCLEAR FACILITIES

Memorandum of a group of socialist States

1. The problems of banning radiological weapons and protecting nuclear facilities from attacks have been considered by the Conference on Disarmament for several years. Since 1980 the Conference has in each year established a subsidiary body with a definite mandate aimed at conducting negotiations on a treaty prohibiting the development, production, stockpiling and use of radiological weapons. For a number of years, the Conference has also been engaged, within the framework of that same subsidiary body, in an active search for a prompt solution to the question of prohibition of attacks on nuclear facilities.
2. The socialist States cannot help stating that in spite of all efforts and a large amount of useful work in that subsidiary body, no tangible progress may be registered towards solutions to either of the issues. Such a state of affairs cannot but adversely affect the prestige and judgement of the Conference on Disarmament, the sole multilateral negotiating forum, as well as of the multilateral disarmament process itself. The socialist States express their concern over this situation, and, wishing to facilitate progress on the issues of banning radiological weapons and protecting nuclear facilities from attack, submit the following considerations for discussion at the Conference on Disarmament.
3. In the opinion of the socialist States, the prohibition of radiological weapons is precisely the problem which is ripe for solution. The "Agreed Joint USSR-United States Proposal on Major Elements of a Treaty Prohibiting the Development, Production, Stockpiling and Use of Radiological Weapons" (CD/31) dated 9 July 1979, continues to be a basis for decisive progress in that field. The socialist States maintain the view that the prohibition of radiological weapons on the basis of the Soviet-American draft would be preferable, since a linkage of that prohibition to the ultimate solution of another issue which has not yet reached a similarly advanced phase of negotiations, could only further delay the conclusion of an appropriate agreement.
4. At the same time, the socialist States bear in mind that some of the provisions of the 1979 draft have in the course of negotiations undergone certain development. In that connection, and seeking to accommodate the position of non-aligned and neutral States, they wish to state hereby that the definition of radiological weapons as formulated in document CD/530 of 3 August 1984 is acceptable to them.

5. The socialist States reaffirm also their serious interest in the earliest possible adoption of practical measures to provide for the safe development of nuclear energy for peaceful purposes. In this context, they note that several years of deliberations at the Conference on the protection of nuclear facilities from attack have clearly demonstrated the fact that the definition of the scope of prohibition or the criteria for nuclear facilities to be protected are among the key issues involved in the preparation of a future international legal instrument dealing with the problem. Several concrete proposals have been put forth in that respect by various States. Having carefully analysed those proposals, the socialist States have come to the conclusion that the most appropriate solution would be the one whereby the ban on attacks against nuclear installations would apply to facilities under International Atomic Energy Agency safeguards.

6. The socialist States wish to further state that they would have no objections to the list of facilities to be protected from attacks as contained in document CD/530 of 3 August 1984, subject to the understanding that such facilities are covered by IAEA safeguards as mentioned in the previous paragraph.

7. As far as the relationship between the prohibition of radiological weapons and the prohibition of attacks against nuclear facilities is concerned, the socialist States wish to indicate that while favouring separate solutions to those problems, they are also prepared to address them with one single agreement.

8. The socialist States express the hope that the other members of the Conference will respond to their flexibility on the key issues of these problems in a similar spirit and with constructive steps with a view to an early conclusion of corresponding negotiations.

CONFERENCE ON DISARMAMENT

CD/635*
22 August 1985
Original: ENGLISH

REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 299th plenary meeting held on 14 March 1985, as contained in document CD/577, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1985 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of the 1985 session.

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At its 306th plenary meeting on 4 April 1985, the Conference on Disarmament appointed Ambassador Richard Butler of Australia as Chairman of the Ad Hoc Committee. Mr. Victor Slipchenko, United Nations Department for Disarmament Affairs, served as Secretary of the Ad Hoc Committee.

3. The Ad Hoc Committee held 16 meetings from 19 April to 16 August 1985. In addition, the Chairman held a number of informal consultations with delegations.

4. At their request, the representatives of the following States not members of the Conference on Disarmament participated in the work of the Ad Hoc Committee: Finland, Norway, Portugal, Spain and Switzerland.

5. In carrying out its mandate, the Ad Hoc Committee took into account paragraph 76 of the Final Document of the first special session of the United Nations General Assembly devoted to disarmament. It also took into consideration the relevant recommendations of the United Nations Disarmament Commission, in particular those adopted in connection with the Second Disarmament Decade in 1980. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Ad Hoc Committee took into account in particular resolution 39/151 J of the General Assembly of 17 December 1984. Paragraphs 1 and 2 of that resolution read as follows:

"1. Takes note of that part of the report of the Conference on Disarmament that deals with the question of radiological weapons, in particular the report of the Ad Hoc Committee on Radiological Weapons and its recommendation that, in view of the fact that the Committee's mandate was not fulfilled, the Conference on Disarmament should re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1985 session;

"2. Requests the Conference on Disarmament to continue its negotiations on the subject with a view to a prompt conclusion of its work, taking into account all proposals presented to the Conference to this end, the result of which should be submitted to the General Assembly at its fortieth session;"

* Reissued for technical reasons

6. In addition to the documents of previous sessions, the Ad Hoc Committee had before it the following new documents for consideration:

- CD/590, dated 17 April 1985, submitted by Canada, entitled "Letter dated 15 April 1985 addressed to the Secretary-General of the Conference on Disarmament by the Permanent Representative of Canada, transmitting a compendium of CD Verbatim Records and working papers on radiological weapons"
- CD/594, dated 12 June 1985, submitted by a group of Socialist States, entitled "Prohibition of radiological weapons and prohibition of attacks against nuclear facilities"
- CD/RW/WP.59, dated 19 June 1985, entitled "Programme of Work of the Ad Hoc Committee on Radiological Weapons"
- CD/RW/WP.60, dated 19 June 1985, entitled "Timetable"
- CD/RW/WP.61, dated 2 July 1985, submitted by China, entitled "Some Views on the Scope of Nuclear Facilities"
- CD/RW/WP.62, dated 16 July 1985, submitted by China, entitled "Some Opinions on the Definition and Criterion of Radiological Weapons"
- CD/RW/WP.63 and Rev.1, dated 16 July and 5 August 1985, submitted by the Chairman, entitled "Chairman's Suggestions for Draft Elements on Scope, Definitions and Criteria"
- CD/RW/WP.64 and Rev.1, dated 1 and 6 August 1985, submitted by the Chairman, entitled "Chairman's Suggestions for an Element on 'Peaceful Uses'"
- CD/RW/WP.65 and Rev.1, dated 8 and 12 August 1985, submitted by the Chairman, entitled "Chairman's Suggestions for an Element on 'Nuclear Disarmament'"
- CD/RW/WP.66, dated 8 August 1985, entitled "Draft Report of the Ad Hoc Committee on Radiological Weapons"
- CD/RW/WP.67, dated 12 August 1985, submitted by the Chairman, entitled "Chairman's Suggestions for Draft Elements of an Annex relating to Article II (b)".

III. WORK DURING THE 1985 SESSION

7. At its second meeting, on 14 June, the Ad Hoc Committee decided, at the suggestion of the Chairman, to proceed on the basis of a "unitary" approach to the two major questions before it, i.e. the prohibition of radiological weapons in the "traditional" sense and the prohibition of attacks against nuclear facilities. Accordingly, it agreed to allocate equal time for the consideration

of both questions without, however, procedurally dividing the work of the Committee into two separate "tracks" or giving priority to either of them. It further agreed that this decision was without prejudice to: the final positions of delegations on a treaty or treaties as such; the "link" between the above two questions; delegations' position on the appropriate manner of dealing with them.

8. At its third meeting, on 18 June, the Ad Hoc Committee adopted the following programme of work for its 1985 session:

"Within the questions of the prohibition of radiological weapons in the 'traditional' sense and the prohibition of attacks against nuclear facilities, the following problems should be discussed without prejudging the final position of delegations as regards the "link" between the two aspects of the issue:

- Definitions and Criteria
- Scope
- Peaceful uses
- Cessation of the nuclear arms race and nuclear disarmament
- Compliance and verification".

9. The Chairman submitted a number of suggestions for draft treaty elements which provided the basis for discussion during the meetings of the Ad Hoc Committee and resulted in the compilation of draft provisions, undertaken by the Chairman, to reflect the state of deliberations on the two major questions before the Ad Hoc Committee. This compilation is contained in the Annex to this report. It is understood that the Annex is not binding on any delegation. Furthermore, the issue of compliance and verification was only briefly touched upon.

IV. CONCLUSIONS AND RECOMMENDATIONS

10. It was recognized that the work accomplished by the Ad Hoc Committee in 1985 made a further contribution to the solution of the issues entrusted to it. It is therefore recommended that the Conference on Disarmament should re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1986 session and that the Annex to this report be considered as a basis for further work.

ANNEX

SCOPE

1. Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, transfer or use radiological weapons.
- [2. Each State Party to this Treaty also undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material, not defined as a radiological weapon in Article ... of this Treaty, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.]
- [3. Each State Party further undertakes never under any circumstances to release or disseminate radioactive material causing destruction, damage or injury, by means of the radiation produced by the decay of such material, by attacking nuclear facilities as they are defined in Article ... of this Treaty.]
- [3. Each State Party to this Treaty undertakes never under any circumstances to attack nuclear facilities.]
- [3. bis This prohibition against attack shall not apply to nuclear facilities giving regular significant and direct support to military operations in time of war if such attack is the only feasible way of terminating such support and providing that such attacks do not lead to the release of radioactivity.]
- [4. The provisions of this Treaty shall not apply to nuclear explosive devices or to radioactive material produced by them.]
5. Each State Party to this Treaty also undertakes not in any way to assist, encourage or induce any person, State, group of States, or international organization to engage in any of the activities which the States Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs 1, 2 and 3 of this Article.

DEFINITIONS

For the purposes of this Treaty:

- (a) the term "radiological weapon" means:
 - (i) Any device, including any weapon or equipment, specifically designed to employ radioactive material by disseminating it to cause destruction, damage, or injury by means of the radiation produced by the decay of such material:
 - (ii) Any radioactive material specifically [prepared] [designed] for employment, by its dissemination, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

b) The term "nuclear facilities" means nuclear facilities [for peaceful uses] on land which are:

- (i) nuclear reactors;
- (ii) intermediate spent fuel storages; [facilities for transport and storage of nuclear fuel];
- (iii) reprocessing plants;
- (iv) waste deposits and
- (v) enrichment facilities.]]

which are under IAEA safeguards] [and which in accordance with Annex ... included in a Register maintained by the Depositary. Annex ... constitutes integral part of the Treaty.]] 1/

PEACEFUL USES

Nothing in this Treaty should be interpreted as affecting the inalienable right of all States Parties to apply and develop their programmes for the peaceful uses of nuclear energy for economic and social development [as well as the use of sources of radiation from radioactive decay for peaceful purposes] [consistent with the need to prevent the [vertical, horizontal and proliferation of nuclear weapons] [in all its aspects], [with the aim to achieve measures of nuclear disarmament] [with the overriding need of effective disarmament measures], and in conformity with their priorities, interests and needs [consistent with the provisions of the present Treaty].]

Each State Party undertakes [to contribute] [to promote] [to the fullest possible extent] to the strengthening of international co-operation in the peaceful uses of nuclear energy [radioactive materials] taking into account the particular needs of the developing countries.]

Each State Party undertakes to contribute to the fullest possible extent to the development of adequate measures of protection for all States against the harmful effects of radiation.]

CESSATION OF THE NUCLEAR ARMS RACE AND NUCLEAR DISARMAMENT

The States Parties to this Treaty undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons, and the achievement of nuclear disarmament.]

Nothing in this Treaty shall be interpreted as in any way limiting or detracting from existing rules of international law applicable in armed conflict or detracting from obligations assumed by the States Parties under other international agreement. Nor shall it be interpreted as in any way detracting from existing international law relating to nuclear weapons or detracting from obligations to prevent the use or threat of use of such weapons and the achievement of nuclear disarmament.]

/ In this context, CD/RW/WP.67 contains Chairman's suggestions for draft texts of an Annex relating to Article II (b).

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CONFERENCE ON DISARMAMENT

CD/635*
22 August 1985
Original: ENGLISH

REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 299th plenary meeting held on 14 March 1985, as contained in document CD/577, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1985 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of the 1985 session.

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At its 306th plenary meeting on 4 April 1985, the Conference on Disarmament appointed Ambassador Richard Butler of Australia as Chairman of the Ad Hoc Committee. Mr. Victor Slipchenko, United Nations Department for Disarmament Affairs, served as Secretary of the Ad Hoc Committee.

3. The Ad Hoc Committee held 16 meetings from 19 April to 16 August 1985. In addition, the Chairman held a number of informal consultations with delegations.

4. At their request, the representatives of the following States not members of the Conference on Disarmament participated in the work of the Ad Hoc Committee: Finland, Norway, Portugal, Spain and Switzerland.

5. In carrying out its mandate, the Ad Hoc Committee took into account paragraph 76 of the Final Document of the first special session of the United Nations General Assembly devoted to disarmament. It also took into consideration the relevant recommendations of the United Nations Disarmament Commission, in particular those adopted in connection with the Second Disarmament Decade in 1980. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Ad Hoc Committee took into account in particular resolution 39/151 J of the General Assembly of 17 December 1984. Paragraphs 1 and 2 of that resolution read as follows:

"1. Takes note of that part of the report of the Conference on Disarmament that deals with the question of radiological weapons, in particular the report of the Ad Hoc Committee on Radiological Weapons and its recommendation that, in view of the fact that the Committee's mandate was not fulfilled, the Conference on Disarmament should re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1985 session;

"2. Requests the Conference on Disarmament to continue its negotiations on the subject with a view to a prompt conclusion of its work, taking into account all proposals presented to the Conference to this end, the result of which should be submitted to the General Assembly at its fortieth session;"

* Reissued for technical reasons

6. In addition to the documents of previous sessions, the Ad Hoc Committee had before it the following new documents for consideration:

- CD/590, dated 17 April 1985, submitted by Canada, entitled "Letter dated 15 April 1985 addressed to the Secretary-General of the Conference on Disarmament by the Permanent Representative of Canada, transmitting a compendium of CD Verbatim Records and working papers on radiological weapons"
- CD/594, dated 12 June 1985, submitted by a group of Socialist States, entitled "Prohibition of radiological weapons and prohibition of attacks against nuclear facilities"
- CD/RW/WP.59, dated 19 June 1985, entitled "Programme of Work of the Ad Hoc Committee on Radiological Weapons"
- CD/RW/WP.60, dated 19 June 1985, entitled "Timetable"
- CD/RW/WP.61, dated 2 July 1985, submitted by China, entitled "Some Views on the Scope of Nuclear Facilities"
- CD/RW/WP.62, dated 16 July 1985, submitted by China, entitled "Some Opinions on the Definition and Criterion of Radiological Weapons"
- CD/RW/WP.63 and Rev.1, dated 16 July and 5 August 1985, submitted by the Chairman, entitled "Chairman's Suggestions for Draft Elements on Scope, Definitions and Criteria"
- CD/RW/WP.64 and Rev.1, dated 1 and 6 August 1985, submitted by the Chairman, entitled "Chairman's Suggestions for an Element on 'Peaceful Uses'"
- CD/RW/WP.65 and Rev.1, dated 8 and 12 August 1985, submitted by the Chairman, entitled "Chairman's Suggestions for an Element on 'Nuclear Disarmament'"
- CD/RW/WP.66, dated 8 August 1985, entitled "Draft Report of the Ad Hoc Committee on Radiological Weapons"
- CD/RW/WP.67, dated 12 August 1985, submitted by the Chairman, entitled "Chairman's Suggestions for Draft Elements of an Annex relating to Article II (b)".

III. WORK DURING THE 1985 SESSION

7. At its second meeting, on 14 June, the Ad Hoc Committee decided, at the suggestion of the Chairman, to proceed on the basis of a "unitary" approach to the two major questions before it, i.e. the prohibition of radiological weapons in the "traditional" sense and the prohibition of attacks against nuclear facilities. Accordingly, it agreed to allocate equal time for the consideration

of both questions without, however, procedurally dividing the work of the Committee into two separate "tracks" or giving priority to either of them. It further agreed that this decision was without prejudice to: the final positions of delegations on a treaty or treaties as such; the "link" between the above two questions; delegations' position on the appropriate manner of dealing with them.

8. At its third meeting, on 18 June, the Ad Hoc Committee adopted the following programme of work for its 1985 session:

"Within the questions of the prohibition of radiological weapons in the 'traditional' sense and the prohibition of attacks against nuclear facilities, the following problems should be discussed without prejudging the final position of delegations as regards the "link" between the two aspects of the issue:

- Definitions and Criteria
- Scope
- Peaceful uses
- Cessation of the nuclear arms race and nuclear disarmament
- Compliance and verification".

9. The Chairman submitted a number of suggestions for draft treaty elements which provided the basis for discussion during the meetings of the Ad Hoc Committee and resulted in the compilation of draft provisions, undertaken by the Chairman, to reflect the state of deliberations on the two major questions before the Ad Hoc Committee. This compilation is contained in the Annex to this report. It is understood that the Annex is not binding on any delegation. Furthermore, the issue of compliance and verification was only briefly touched upon.

IV. CONCLUSIONS AND RECOMMENDATIONS

10. It was recognized that the work accomplished by the Ad Hoc Committee in 1985 made a further contribution to the solution of the issues entrusted to it. It is therefore recommended that the Conference on Disarmament should re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1986 session and that the Annex to this report be considered as a basis for further work.

ANNEX

SCOPE

1. Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, transfer or use radiological weapons.
- [2. Each State Party to this Treaty also undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material, not defined as a radiological weapon in Article ... of this Treaty, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.]
- [3. Each State Party further undertakes never under any circumstances to release or disseminate radioactive material causing destruction, damage or injury, by means of the radiation produced by the decay of such material, by attacking nuclear facilities as they are defined in Article ... of this Treaty.]
- [3. Each State Party to this Treaty undertakes never under any circumstances to attack nuclear facilities.]
- [3. bis This prohibition against attack shall not apply to nuclear facilities giving regular significant and direct support to military operations in time of war if such attack is the only feasible way of terminating such support and providing that such attacks do not lead to the release of radioactivity.]
- [4. The provisions of this Treaty shall not apply to nuclear explosive devices or to radioactive material produced by them.]
5. Each State Party to this Treaty also undertakes not in any way to assist, encourage or induce any person, State, group of States, or international organization to engage in any of the activities which the States Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs 1, 2 and 3 of this Article.

DEFINITIONS

For the purposes of this Treaty:

- (a) the term "radiological weapon" means:
 - (i) Any device, including any weapon or equipment, specifically designed to employ radioactive material by disseminating it to cause destruction, damage, or injury by means of the radiation produced by the decay of such material:
 - (ii) Any radioactive material specifically [prepared] [designed] for employment, by its dissemination, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

b) The term "nuclear facilities" means nuclear facilities [for peaceful uses] on land which are:

- (i) nuclear reactors;
- (ii) intermediate spent fuel storages; [facilities for transport and storage of nuclear fuel];
- (iii) reprocessing plants;
- (iv) waste deposits and
- (v) enrichment facilities.]]

which are under IAEA safeguards] [and which in accordance with Annex ... included in a Register maintained by the Depositary. Annex ... constitutes integral part of the Treaty.]] 1/

PEACEFUL USES

Nothing in this Treaty should be interpreted as affecting the inalienable right of all States Parties to apply and develop their programmes for the peaceful uses of nuclear energy for economic and social development [as well as the use of sources of radiation from radioactive decay for peaceful purposes] [consistent with the need to prevent the [vertical, horizontal and proliferation of nuclear weapons] [in all its aspects], [with the aim to achieve measures of nuclear disarmament] [with the overriding need of effective disarmament measures], and in conformity with their priorities, interests and needs [consistent with the provisions of the present Treaty].]

Each State Party undertakes [to contribute] [to promote] [to the fullest possible extent] to the strengthening of international co-operation in the peaceful uses of nuclear energy [radioactive materials] taking into account the particular needs of the developing countries.]

Each State Party undertakes to contribute to the fullest possible extent to the development of adequate measures of protection for all States against the harmful effects of radiation.]

CESSATION OF THE NUCLEAR ARMS RACE AND NUCLEAR DISARMAMENT

The States Parties to this Treaty undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons, and the achievement of nuclear disarmament.]

Nothing in this Treaty shall be interpreted as in any way limiting or detracting from existing rules of international law applicable in armed conflict or from existing international law relating to nuclear weapons or detracting from existing international law relating to nuclear weapons or detracting from obligations to prevent the use or threat of use of such weapons and the achievement of nuclear disarmament.]

/ In this context, CD/RW/WP.67 contains Chairman's suggestions for draft text of an Annex relating to Article II (b).

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REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 344th plenary meeting held on 4 March 1986, as contained in document CD/674, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1986 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of the 1986 session.

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At its 344th plenary meeting on 4 March 1986, the Conference on Disarmament appointed Ambassador Carlos Lechuga Hevia of Cuba as Chairman of the Ad Hoc Committee. Mr. Victor Slipchenko, United Nations Department for Disarmament Affairs, continued to serve as Secretary of the Ad Hoc Committee.

3. The Ad Hoc Committee held 17 meetings from 7 March to 11 August 1986. In addition, the Chairman held a number of informal consultations with delegations.

4. At their request, the representatives of the following States not members of the Conference on Disarmament participated in the work of the Ad Hoc Committee: Finland, Greece, Norway, Portugal, Spain, Switzerland and Turkey.

5. In carrying out its mandate, the Ad Hoc Committee took into account paragraph 76 of the Final Document of the first special session of the United Nations General Assembly devoted to disarmament. It also took into consideration the relevant recommendations of the United Nations Disarmament Commission, in particular those adopted in connection with the Second Disarmament Decade in 1980. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Ad Hoc Committee took into account in particular resolution 40/94 D of the General Assembly of 12 December 1985. Paragraphs 1 to 4 of that resolution read as follows:

"1. Takes note of that part of the report of the Conference on Disarmament on its 1985 session that deals with the question of radiological weapons, in particular the report of the Ad Hoc Committee on Radiological Weapons;

"2. Takes note also of the recommendation of the Conference on Disarmament that the Ad Hoc Committee on Radiological Weapons should be re-established at the beginning of its 1986 session and that the annex to the report of the Ad Hoc Committee should be considered as a basis for further work;

"3. Recognizes that the work accomplished by the Ad Hoc Committee on Radiological Weapons in 1985 made a further contribution to the solution of the issues entrusted to it;

"4. Requests the Conference on Disarmament to continue its negotiations on the subject with a view to a prompt conclusion of its work, taking into account all proposals presented to the Conference to this end, the result of which should be submitted to the General Assembly at its forty-first session;"

6. In addition to the documents of previous sessions, the Ad Hoc Committee had before it the following new documents for consideration:

- CD/RW/WP.68, dated 21 March 1986, entitled "Method and Programme of Work"
- CD/RW/WP.69, dated 20 March 1986, submitted by Argentina, entitled "Scope"
- CD/RW/WP.70, dated 29 July 1986, submitted by the Co-ordinator of the Contact Group on the issues of Scope and Definitions, entitled "Draft Treaty Elements on the Issues of Scope and Definitions"
- CD/RW/WP.70/Rev.1, dated 11 August 1986, entitled "Contact Group on the Issues of Scope and Definitions: Report of the Co-ordinator"
- CD/RW/WP.71, dated 31 July 1986, submitted by the Co-ordinator of the Contact Group on the issues of Peaceful Uses and Cessation of the Nuclear Arms Race and Nuclear Disarmament, entitled "Draft Treaty Elements on the Issues of Peaceful Uses and Cessation of the Nuclear Arms Race and Nuclear Disarmament"
- CD/RW/WP.71/Rev.1, dated 11 August 1986, entitled "Contact Group on the Issues of Peaceful Uses and Cessation of the Nuclear Arms Race and Nuclear Disarmament: Report of the Co-ordinator"
- CD/RW/WP.72, dated 5 August 1986, entitled "Contact Group on Verification and Compliance for a Radiological Weapons Treaty: Working Paper by Co-ordinator"
- CD/RW/WP.73, dated 5 August 1986, submitted by Pakistan, entitled "Some Suggestions on the Question of Attacks on Nuclear Facilities"

III. WORK DURING THE 1986 SESSION

7. At its 4th meeting on 25 March, the Ad Hoc Committee adopted the method and programme of work for its 1986 session. Accordingly, it agreed to continue on the basis of the "unitary" approach to the two major questions that had been before it for a number of years, i.e., the prohibition of radiological weapons in the "traditional" sense and the prohibition of attacks against nuclear facilities. It further agreed to continue to consider both questions without dividing its work into two separate "tracks" and without giving priority to either of them, on the understanding that that decision was without prejudice to: the final positions of delegations on a treaty or treaties as such; the "link" between the above two questions; delegations' position on the appropriate manner of dealing with them; and to any other approaches and questions which might be presented. The Ad Hoc Committee also decided that the programme of work for its 1986 session would be the same as in 1985 and would include the following issues:

- definitions and criteria;
- scope;
- peaceful uses;
- cessation of the nuclear arms race and nuclear disarmament;
- compliance and verification.

The Committee agreed to consider the annex to document CD/635 as a basis for its work in 1986, in accordance with its 1985 report, as well as all existing proposals and future initiatives.

8. In accordance with its programme of work, the Ad Hoc Committee devoted six meetings to the exchange of views on all items included in the programme. At its 8th meeting on 21 April 1986, the Committee decided, on the suggestion of its Chairman, to set up three contact groups on the issues of scope and definitions, peaceful uses and cessation of the nuclear arms race and nuclear disarmament, and verification and compliance, co-ordinated by Ambassador Rolf Ekéus of Sweden, Ambassador Dávid Meiszter of Hungary and Ambassador Richard Butler of Australia, respectively.

9. The contact group on the issues of scope and definitions held five meetings open to all delegations. On the basis of document CD/635 and an exchange of views, a paper on draft elements which could be included in a treaty was prepared by the co-ordinator and examined by the contact group, some elements being further elaborated. Differences remained, however, on a number of issues and formulations. Therefore, alternative formulations and points of view on the various questions considered in the paper prepared by

the co-ordinator were submitted to the contact group. The co-ordinator's report in CD/RW/WP.70/Rev.1 reflects his efforts to find a compromise text.

10. The contact group on the issues of peaceful uses and cessation of the nuclear arms race and nuclear disarmament held three meetings. The contact group considered as a basis for its work relevant parts of the Annex to document CD/635 and took into account other proposals and initiatives. Efforts were made to overcome differences with a view to reaching agreement wherever possible. Working paper CD/RW/WP.71/Rev.1 submitted to the Ad Hoc Committee by the co-ordinator reflects the outcome of the consultations. Further work is needed on both issues for which CD/RW/WP.71/Rev.1 may provide a good basis.

11. The co-ordinator of the contact group prepared a paper with a view to facilitating consultations on the issues of verification and compliance. This paper (CD/RW/WP.72) was referred to in subsequent informal consultations. At the conclusion of these consultations two main points, among others, were clear. First, some delegations believed that there were basic issues involved in the area of verification and compliance which needed to be resolved. Second, it was recognized that, in any case, further consideration of the issues of verification and compliance was contingent upon the resolution of issues under consideration in the contact group dealing with scope and definitions.

12. The documents referred to in paragraphs 9, 10 and 11 above do not prejudice the final positions of delegations, are not binding on any delegation and do not question the validity of existing proposals or preclude future initiatives.

IV. CONCLUSIONS AND RECOMMENDATIONS

13. The work done by the Ad Hoc Committee in 1986 was useful in terms of the mandate entrusted to it. It was clearly revealed, however, that considerable differences of substance and approach continue to exist with regard to both the important subjects under consideration. It is therefore recommended that the Conference on Disarmament should re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1987 session which should, inter alia, consider the ways and means of how best to proceed further. It is also recommended that the documents referred to in paragraphs 6, 9, 10 and 11 above as well as any other relevant documents and proposals should be considered as a basis for future work of the Ad Hoc Committee in accordance with its 1986 report.

CONFERENCE ON DISARMAMENT

CD/779
10 August 1987

Original: ENGLISH

REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 387th plenary meeting held on 10 February 1987, as contained in document CD/738, the Ad hoc Committee on Radiological Weapons was re-established, for the duration of the 1987 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad hoc Committee would report to it on the progress of its work before the conclusion of the 1987 session.

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At its 398th plenary meeting on 19 March 1987, the Conference on Disarmament appointed Ambassador Dávid Meiszter of Hungary as Chairman of the Ad hoc Committee. Mr. Victor Slipchenko, United Nations Department for Disarmament Affairs, continued to serve as Secretary of the Ad hoc Committee.

3. The Ad hoc Committee held seven meetings from 3 April to 10 August 1987. In addition, the Chairman held a number of informal consultations with delegations.

4. At their request, the representatives of the following States not members of the Conference on Disarmament participated in the work of the Ad hoc Committee: Austria, Finland, Greece, New Zealand, Norway, Portugal, Senegal, Spain, Turkey and Zimbabwe.

5. In carrying out its mandate, the Ad hoc Committee took into account paragraph 76 of the Final Document of the first special session of the United Nations General Assembly devoted to disarmament. It also took into consideration the relevant recommendations of the United Nations Disarmament Commission, in particular those adopted in connection with the Second Disarmament Decade in 1980. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Ad hoc Committee had before it resolutions 41/12, 41/59 A and 41/59 I adopted by the General Assembly at its forty-first session entrusting specific responsibilities to the Conference on Disarmament on this subject.

6. In addition to the documents of previous sessions, the Ad hoc Committee had before it the following new documents for consideration:

- CD/RW/WP.74, dated 22 June 1987, entitled "Programme of Work for the second part of the 1987 session"
- CD/RW/WP.75, dated 31 July 1987, entitled "Report of Contact Group A"
- CD/RW/WP.76, dated 3 August 1987, entitled "Report of Contact Group B"

III. WORK DURING THE 1987 SESSION

7. In accordance with the recommendation contained in the report of the Ad hoc Committee on Radiological Weapons in 1986 (CD/722), the Ad hoc Committee devoted five meetings to the consideration of ways and means of how best to proceed further. Several specific suggestions were made in this regard.

8. Following that exchange of views, at its 5th meeting on 19 June, the Ad hoc Committee decided to establish two contact groups: contact group A to consider the prohibition of radiological weapons in the "traditional" sense and contact group B to consider the prohibition of attacks against nuclear facilities. It was further decided that each contact group would be chaired by a co-ordinator, that the two contact groups would meet parallel with each other and that the Ad hoc Committee would periodically review the progress of work in the two groups and the results achieved.

9. Following the decision of the Committee to establish two contact groups A and B, Mr. Sadaaki Numata of Japan and Mr. Hadi Wayarabi of Indonesia agreed to assist the Chair by serving as co-ordinators of the contact groups A and B, respectively.

10. On the basis of the intensive work conducted within the contact groups, the two co-ordinators presented to the Ad hoc Committee, at its 7th meeting on 10 August 1987, their respective reports (CD/RW/WPs.75 and 76) which are reproduced in Annexes I and II to this report, reflecting the current state of consideration of the issues before the Ad hoc Committee. It is understood that the contents of the Annexes are not binding on any delegation.

IV. CONCLUSIONS AND RECOMMENDATIONS

11. The work conducted by the Ad hoc Committee in 1987 made a further contribution to the clarification and better understanding of different approaches which continue to exist with regard to both the important subjects under consideration. It is recommended that the Conference on Disarmament should re-establish the Ad hoc Committee on Radiological Weapons at the beginning of its 1988 session and that the Ad hoc Committee should draw upon the Annexes to this report as a basis for its future work.

ANNEX I

Report of Contact Group A

1. Contact Group A held six meetings on the prohibition of radiological weapons as well as a number of informal consultations on the subject. The documents referred to in the past reports of the Ad hoc Committee on Radiological Weapons as well as other documents, existing proposals and new initiatives were taken as the basis of the work of the Contact Group. The meetings and consultations of the Contact Group were open to all delegations.

2. During these discussions, possible elements for a convention on the prohibition of radiological weapons were identified and, where possible, developed. The issues of verification and compliance as well as other main elements were only briefly touched upon.

3. The result of the work is appended below in the form of the Co-ordinator's record, comprising draft elements and alternatives thereto, which may serve as a basis for future consideration of this issue. It is presented on the understanding that it does not prejudice delegations' position on the appropriate manner of dealing with the matter and any other approaches and proposals which might be presented in the future. Nor is it binding on any delegation.

POSSIBLE ELEMENTS FOR A CONVENTION ON THE
PROHIBITION OF RADIOLOGICAL WEAPONS */

SCOPE

1. Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, transfer or use radiological weapons. 1/

2. Each State Party to this Treaty also undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material, not defined as a radiological weapon in ... of this Treaty to cause destruction, damage, or injury by means of the radiation produced by the decay of such material. 2/

3. Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which the States Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs 1 and 2 of this Article.

4. Each State Party to this Treaty undertakes, in accordance with its constitutional procedures, to take any measures which it considers necessary anywhere under its jurisdiction or control:

(a) to prohibit and prevent any of the activities which for a State Party would constitute a violation of the obligations undertaken by the State Parties under this Treaty;

(b) to prohibit and prevent diversion to radiological weapons, or to the employment prohibited by paragraph 2 of this Article, of radioactive materials that might be used for such weapons or employment;

(c) to prevent loss of radioactive materials that might be used for such weapons or employment.

*/ These elements are not intended to prejudice the eventual positions of delegations regarding the question of "linkage".

1/ A view was expressed that the focus should be on the prohibition of the use of radiological weapons in warfare and that it was necessary to simplify the formulation in this paragraph.

2/ A view was expressed concerning the need to focus on the prohibition of the use of radiological weapons in warfare.

5.*/ Nothing in paragraph 4 above shall be interpreted as requiring or permitting a State Party to take measures which could affect the programmes of other States for the use 1/ of nuclear energy or technology for their economic or social development. 2/

DEFINITIONS

For the purposes of this Treaty:

The term "radiological weapon" means **/, ***/, ****/, *****/:

First alternative

- (i) Any device, including any weapon or equipment, specifically designed to employ radioactive material by disseminating it to cause destruction, damage, or injury by means of the radiation produced by the decay of such material;

*/ Some delegations expressed the view that consideration should be given to whether the concerns reflected in this paragraph should be addressed under the draft element "Peaceful Uses".

**/ A view was expressed that, for the purposes of this Treaty, it might be necessary to clarify what is meant by "radioactive materials".

***/ A view was expressed that the term "radiological weapons" might include the so-called particle beam weapons which give ionizing radiation in other ways than through radioactive decay.

****/ Some delegations expressed the view that "particle beam weapons" should not be treated as radiological weapons, that the definition of radiological weapons as contained in CD/31 and CD/32 is based on the decay of nuclear material, whereas directed energy devices produce particle beams without nuclear involvement, that known concepts of directed energy devices do not employ the radiation spectrum of radiological weapons but make use of protons and electrons while radiological weapons would exploit mainly gamma- and neutron-radiation as well as beta- and short ranging alpha-radiation, and that therefore, the development, production, stockpiling, acquisition or possession, transfer or use of directed energy devices is compatible with this Treaty.

*****/ Some delegations expressed the view that nothing in this Treaty shall be interpreted as in any way legitimizing the development, production, stockpiling, acquisition or possession, transfer or use of directed energy weapons.

1/ Some delegations suggested that the word "peaceful" be inserted before the word "use".

2/ One delegation suggested the addition at the end of the paragraph of "in conformity with their priorities, interests and needs."

- (ii) Any radioactive material specifically configured 1/ for employment, by its dissemination, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

Second alternative

Any device, including any weapon or equipment, specifically designed to employ radioactive material to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

PEACEFUL USES

1. First alternative

Nothing in this Treaty should be interpreted 2/ as affecting in any way the full exercise of the inalienable rights of all States Parties to apply and develop their programmes for the peaceful 3/ uses of nuclear energy for economic and social development in conformity with their priorities, interests and needs. 4/

Second alternative

Nothing in this Treaty should be interpreted as affecting the inalienable rights of the States Parties to this Treaty to develop and apply their programmes for the peaceful uses of nuclear energy for economic and social development, consistent with the need to prevent the proliferation of nuclear weapons, 5/ in conformity with their priorities, interests and needs.

2. First alternative

Each State Party undertakes to contribute 6/ to the strengthening of international co-operation in the peaceful uses of nuclear energy in conformity with 7/ the needs of developing countries. 4/

Second alternative

Each State Party undertakes to promote co-operation in the peaceful uses of nuclear energy in conformity with 7/ the needs of developing countries.

1/ Some delegations preferred "prepared" or "designed" to "configured".

2/ A suggestion was made to insert "or implemented" after "interpreted".

3/ Some delegations suggested the deletion of "peaceful".

4/ A view was expressed that, in order to strike an inner balance conducive to consensus, there should be an addition reflecting the last sentence of paragraph 68 of the Final Document of SSOD I.

5/ Some delegations suggested "under international agreements" instead of "consistent with the need to prevent the proliferation of nuclear weapons".

6/ Some delegations suggested the insertion of "to the fullest possible extent" after "contribute".

7/ A preference was expressed for "taking into account" instead of "in conformity with".

3. Each State Party undertakes to contribute to the fullest possible extent 1/ to the development of adequate measures of protection for all States against the harmful effects of radiation.

CESSATION OF THE NUCLEAR ARMS RACE
AND NUCLEAR DISARMAMENT

1. The States Parties to this Treaty undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons, and the achievement of nuclear disarmament. 2/
2. The implementation of these obligations should be periodically reviewed as provided for in Article 3/

OTHER MAIN ELEMENTS

1. The provisions of this Treaty shall not apply to nuclear explosive devices or to radioactive material produced by them. 4/
2. Nothing in this Treaty shall be interpreted as in any way legitimizing the use of nuclear weapons or detracting from the obligation of States to refrain from the use or threat of use of such weapons. 4/
3. First alternative

Nothing in this Treaty shall be interpreted as in any way limiting or detracting from existing rules of international law applicable in armed conflict or limiting or detracting from obligations assumed by the States Parties under any other international agreement.

Second alternative

Nothing in this Treaty shall be interpreted as in any way limiting or detracting from existing rules of international law applicable in armed conflict or limiting or detracting from obligations assumed by the States Parties under any other international agreement, consistent with the need to prevent the proliferation 5/ of nuclear weapons and the need to achieve urgent measures of nuclear disarmament.

VERIFICATION AND COMPLIANCE
(to be developed)

1/ Some delegations suggested the insertion of "and in accordance with international undertakings" after "contribute to the fullest possible extent".

2/ Some delegations were of the view that such an undertaking was outside the purview of this Treaty.

3/ Questions were raised concerning the need for this paragraph.

4/ Objections were raised concerning this paragraph.

5/ Some delegations preferred "vertical, horizontal and geographic proliferation" to "proliferation".

ANNEX II

Report of Contact Group B

1. In accordance with the Programme of Work of the Ad hoc Committee on Radiological Weapons as contained in document CD/RW/WP.74 dated 22 June 1987, Contact Group B had before it items relevant to the question of the prohibition of attacks against nuclear facilities, as follows:

- Scope
- Definitions
- Criteria
- Verification and compliance
- Other main elements, inter alia, Depositary, Register and Special Marking

2. Contact Group B held six meetings from 29 June to 3 August 1987. In addition, the Co-ordinator conducted informal consultations.

3. For the purpose of having structured and systematic consideration, Contact Group B concentrated on the items of Scope, Definition, Criteria, Depositary, Register and Special Marking. A proposal made by the Co-ordinator was used as the basis of work of the Contact Group. Due to lack of time the consideration of the item of Verification and Compliance had to be postponed.

4. All common and different views were recorded by the Co-ordinator in a systematic and integrated manner. That record is not binding upon any delegation and its main purpose is to facilitate future consideration. The Co-ordinator's record is attached.

5. Contact Group B recommends the Ad hoc Committee on Radiological Weapons to append the attached Co-ordinator's record as a basis for future work.

Attachment

POSSIBLE ELEMENTS RELEVANT TO THE PROHIBITION
OF ATTACKS AGAINST NUCLEAR FACILITIES */ **/

SCOPE (Purpose)

Paragraph 1 ***/

First alternative

Each State Party undertakes never under any circumstances to attack nuclear facilities covered by the provisions of this Treaty.

Second alternative

Each State Party undertakes never under any circumstances to attack any nuclear facility.

Third alternative ****/ *****/

Each State Party undertakes never under any circumstances to release and disseminate radioactive substances by attacking nuclear facilities covered by the provisions of this Treaty.

*/ This record does not prejudice the eventual positions of delegations relating to the question of "linkage", or the positions of delegations on the question of the need of having additional legal protection for nuclear facilities. As to the latter, a view was expressed that additional discussion on existing international agreements pertaining to the question is needed.

**/ The placement of the various alternatives in the text should not be regarded as indication of priority or the degree of their acceptability to the Committee.

***/ Some delegations suggested that the Scope should also cover an undertaking not to threaten to attack nuclear facilities.

****/ Some delegations stated that the third alternative of Scope based on the criterion of mass destruction read in conjunction with the first alternative of paragraph 2 (Definitions), the first alternative of Criteria, the first alternative of paragraphs 1 to 8 (Register) as well as the first alternative of paragraph 1 and the second alternative of paragraph 2 (Special Marking) constitute one complete and consistent set of elements to be included in a draft Treaty.

*****/ Other delegations pointed out that the criterion of "mass destruction", on which the third alternative of Scope was based, was irrelevant to the purpose of the proposed Treaty. They also stated that besides other flaws, it would amount to legitimizing attacks on nuclear facilities which did not fulfil the arbitrarily defined specifications proposed by the authors of this criterion for such facilities to qualify for protection. A Treaty based on elements mentioned in the previous footnote would, therefore, be discriminatory against developing countries as their

Fourth alternative

Each State Party undertakes never under any circumstances to attack nuclear facilities subject to the specifications of this Treaty.

Paragraph 2

First alternative

Each State Party undertakes not in any way to assist, encourage or induce any person, State, group of States, or international organization to engage in any activity which the State Parties to the Treaty have undertaken not to engage in.

Second alternative

Each State Party undertakes not in any way to assist, encourage or induce any person, State, group of States or international organization to ...

DEFINITIONS

Paragraph 1 */ **/

For the purposes of this Treaty, the term "attack" means any act which causes, directly or indirectly:

- (i) any damage to, or the destruction of, a nuclear facility; or
- (ii) any interference, interruption, impediment, stoppage or breakdown in the operation of a nuclear facility; or
- (iii) any injury to, or the death of, any of the personnel of a nuclear facility.

nuclear facilities, in many cases, did not come up to the proposed "threshold". Furthermore, such a Treaty would weaken the protection afforded to nuclear facilities under present international law which was not conditional upon their meeting any quantitative specifications. Consequently, such a Treaty would defeat the main purpose of concluding a new international agreement on this subject, which is to strengthen the present legal régime in this regard and to remove existing loopholes.

*/ Some delegations did not see the need for any definition of the word "attack". In their view, the definition is clearly linked to the unlimited scope of paragraph 1 of Scope.

**/ Other delegations were of the view that it would be necessary to define the word "attack" whichever alternative on Scope was eventually adopted.

Paragraph 2

First alternative

For the purpose of this Treaty, the term "nuclear facilities" means:

- (i) Nuclear reactors;
- (ii) Intermediate spent fuel storages;
- (iii) Reprocessing plants;
- (iv) Waste deposits; */ **/

which are included in a Register maintained by the Depositary. ***/

Second alternative

For the purpose of this Treaty, the term "nuclear facilities" means:

- (i) Nuclear reactors;
- (ii) Enrichment plants;
- (iii) Reprocessing plants;
- (iv) Other nuclear fuel cycle facilities;
- (v) Radioactive waste management facilities; and
- (vi) Facilities for the storage of nuclear fuels or radioactive wastes.

Third alternative

For the purpose of this Treaty, the term "nuclear facilities" means:

- (i) Nuclear reactors;
- (ii) Intermediate spent fuel storages;
- (iii) Reprocessing plants;

*/ Some delegations were of the view that this covers only intermediate waste deposits above ground.

**/ Some delegations suggested that since waste deposits generally mean those buried deep underground, only interim waste deposits above ground should be included.

***/ Some delegations opposed the idea of limiting the scope of the Treaty to nuclear facilities included in a Register.

- (iv) Waste deposits;
- (v) Temporary waste storages; and
- (vi) Installations for production of intensive sources of radiation.

Fourth alternative

A nuclear facility means a nuclear reactor or any other facility for the production, handling, treatment, processing or storage of nuclear fuel or other nuclear material.

CRITERIA */ **/

First alternative

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications:

- (i) They shall be stationary on land; ***/
- (ii) Nuclear reactors shall be designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned; ****/
- (iii) Intermediate spent fuel storages shall be designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (iv) Reprocessing plants shall be designed for containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (v) Waste deposits shall contain radioactive material exceeding 10^{17} [10^{18}] Bq.

*/ A view was expressed that should the second alternative of paragraph 1 of the Scope be agreed upon, the consideration of "criteria" was needed only to specify exceptions.

**/ Reservations were expressed as to the applicability of specifying power threshold for nuclear reactors and level of quality and quantity of radioactive materials for other facilities as mentioned in sub-paragraphs (iii), (iv), (v) and (vi) of first and second alternatives.

***/ Regarding (i) in first, second and third alternatives, a view was expressed that nuclear facilities other than those stationary on land should also be covered.

****/ A view was expressed that the aspect of decommissioning has to be studied further.

Second alternative

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications:

- (i) They shall be stationary on land;
- (ii) They shall be used for peaceful purposes;
- (iii) Nuclear reactors shall be designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned;
- (iv) Intermediate spent fuel storages shall be designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (v) Reprocessing plants shall be designed for containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (vi) Waste deposits shall contain radioactive material exceeding 10^{17} [10^{18}] Bq.

Third alternative

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications:

- (i) They shall be stationary on land;
- (ii) They shall be used for peaceful purposes and subject to IAEA safeguards;
- (iii) Nuclear reactors shall be designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned;
- (iv) Intermediate spent fuel storages shall be designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (v) Reprocessing plants shall be designed for containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (vi) Waste deposits shall contain radioactive material exceeding 10^{17} [10^{18}] Bq.

Fourth alternative

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications:

- (i) Nuclear reactors designed for a thermal effect which could exceed 10 MW;

- (ii) Intermediate spent fuel storages designed for storing radioactive material which emit gamma radiation exceeding 10^5 watt; */ **/
- (iii) Installations for reprocessing of nuclear spent fuel;
- (iv) Installations for production of intensive sources of radiation designed to contain radioactive material emitting gamma radiation exceeding 10^5 watt; or
- (v) Waste deposits containing radioactive material which emit gamma radiation exceeding 10^5 watt. */ **/

Fifth alternative

The provisions of paragraph 1 of Scope shall not apply to:

- (i) Nuclear reactors other than those which are stationary on land;
- (ii) Military nuclear facilities of nuclear weapon States.

Additional specification suggested to the above specifications ***/

The nuclear facilities mentioned in paragraph 2 of Definitions which are under the safeguards of the International Atomic Energy Agency are covered by the provisions of this Treaty.

*/ Some delegations pointed out that the internationally adopted way of measuring radiation fall-out after a nuclear accident was in decay per second, that is "Bq".

**/ Some delegations suggested that "Bq" should be used as the standard of measurement for radioactive intensity which was formally adopted by the General Conference on Weights and Measures in 1975.

***/ This refers either to the first, second, third or fourth alternative of Criteria. A view was expressed that the first, second, third or fourth alternative should become paragraph 1 of Criteria and this additional specification should become paragraph 2.

DEPOSITARY

The Depositary shall be ...

REGISTER */ **/

First alternative

1. The Depositary shall maintain a Register of nuclear facilities covered by the provisions of this Treaty and shall transmit certified copies thereof to each State Party to the Treaty.

Second alternative

1. The Depositary shall maintain a Register of nuclear facilities subject to the specifications of this Treaty and shall transmit certified copies thereof to each State Party to the Treaty.

First alternative

2. State Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

- (a) Details on the exact geographical location of the nuclear facility;
- (b) Identification of the type of nuclear facility, i.e. if it is a reactor, intermediate spent fuel storage, reprocessing plant or waste deposit;
- (c) Detailed specifications as applicable in accordance with Paragraph ... (Definition) and Paragraph ... (Criteria) of this Treaty.

Second alternative

2. State Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

- (a) Details on the exact geographical location of the nuclear facility;
- (b) Identification of the type of nuclear facility, i.e. if it is a reactor, intermediate spent fuel storage, reprocessing plant or waste deposit.

*/ Some delegations opposed the idea of limiting the scope of the Treaty to nuclear facilities included in a Register.

**/ Other delegations maintained that nuclear facilities covered by the provisions of this Treaty should be included in a Register.

Third alternative

2. State Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

- (a) Details on the exact geographical location of the nuclear facility;
- (b) Identification of the type of nuclear facility, i.e. if it is a nuclear reactor, enrichment plant, reprocessing plant, other nuclear fuel cycle facility, radioactive waste management facility or facility for the storage of nuclear fuels or radioactive wastes.

First alternative

3. Upon receipt of a request for an inclusion in the Register, the Depositary shall without delay initiate procedures to confirm that the information contained in the request is correct:

- (a) Through, to the extent possible, documentation from the IAEA, and/or
- (b) Through other means, including mission to the facility, when necessary.

4. For the purpose of carrying out the procedures in paragraph 3 (a) above the Depositary may, as it deems necessary, enter into agreement with the IAEA.

5. For the purpose of carrying out the procedures in paragraph 3 (b) above the Depositary shall, with the co-operation of State Parties to the Treaty, compile and maintain a list of qualified experts, whose services could be made available to undertake such missions.

6. The Depositary shall include the facility in the Register as well as relevant details about the facility concerned, as soon as the information given in the request has been substantiated, and shall immediately notify State Parties to the Treaty of any new inclusion in the Register.

7. State Parties having nuclear facilities under their jurisdiction included in the Register shall immediately inform the Depositary of any change that may occur concerning the information given in the request.

8. The costs for implementing these procedures shall be borne by the requesting State.

Second alternative

3. Upon receipt of a request for an inclusion in the Register, the Depositary shall communicate it to all State Parties.

4. The Depositary shall include the facility in the Register as well as relevant details about the facility concerned, as soon as the information given in the request has been substantiated, and shall immediately notify State Parties to the Treaty of any new inclusion in the Register.

5. State Parties having nuclear facilities under their jurisdiction included in the Register shall immediately inform the Depositary of any change that may occur concerning the information given in the request.

6. The costs for implementing these procedures shall be borne by the requesting State.

Third alternative

3. Upon receipt of a request for an inclusion in the Register, the Depositary shall without delay initiate procedures to confirm that the information contained in the request is correct:

(a) Through, to the extent possible, documentation from the IAEA; and/or

(b) Through other means, including mission to the facility, when necessary.

4. For the purpose of carrying out the procedures in paragraph 3 (a) above the Depositary may, as it deems necessary, enter into agreement with the IAEA.

5. For the purpose of carrying out the procedures in paragraph 3 (b) above the Depositary shall, with the co-operation of State Parties to the Treaty, compile and maintain a list of qualified experts, whose services could be made available to undertake such missions.

6. State Parties having nuclear facilities under their jurisdiction included in the Register shall declare that the radioactive material produced, processed or stored in these facilities shall not be used for weapons purposes.

7. The Depositary shall include the facility in the Register as well as relevant details about the facility concerned, as soon as the information given in the request has been substantiated, and shall immediately notify State Parties to the Treaty of any new inclusion in the Register.

8. State Parties having nuclear facilities under their jurisdiction included in the Register shall immediately inform the Depositary of any change that may occur concerning the information given in the request.

9. The costs for implementing these procedures shall be borne by the requesting State.

SPECIAL MARKING */ **/

Paragraph 1

First alternative

Nuclear facilities which are included in the Register should bear Special Marking.

Second alternative

Any nuclear facility covered under Paragraph ... (Definition) and Paragraph ... (Criteria) of this Treaty should bear Special Marking.

Paragraph 2

First alternative

A State Party may request the Depositary to mark its nuclear facilities referred to in paragraph 1 with the Special Marking.

Second alternative

A State Party may mark its nuclear facilities referred to in paragraph 1 with the Special Marking upon the consent of the Depositary.

Third alternative

A State Party may mark its nuclear facilities referred to in paragraph 1 with the Special Marking upon the consent of other State Parties.

Fourth alternative

A State Party may mark its nuclear facilities referred to in paragraph 1 with the Special Marking.

VERIFICATION AND COMPLIANCE

(to be developed)

*/ Some delegations opposed the idea of limiting the scope of the Treaty to nuclear facilities having Special Marking.

**/ Other delegations maintained that nuclear facilities covered by the provisions of this Treaty should be included in a Register and might bear Special Marking.

REPORT OF THE AD HOC COMMITTEE
ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 436th plenary meeting held on 2 February 1988, as contained in document CD/804, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1988 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of the first part of the 1988 session, in view of the third special session of the United Nations General Assembly devoted to disarmament, and that it would also report to the Conference before the conclusion of the second part of its 1988 session.

2. Pursuant to that decision, the Ad Hoc Committee presented its special report to the Conference on Disarmament (CD/820) which contained an account of its work during the second part of the 1982 session as well as during its 1983 to 1987 sessions and the first part of its 1988 session. At its 460th plenary meeting on 26 April 1988, the Conference adopted the special report of the Ad Hoc Committee, which is an integral part of the Special Report of the Conference on Disarmament to the third special session of the United Nations General Assembly devoted to disarmament (CD/834).

II. ORGANIZATION OF WORK AND DOCUMENTATION

3. At its 439th plenary meeting on 11 February 1988, the Conference on Disarmament appointed Ambassador Tessa Solesby of the United Kingdom as Chairman of the Ad Hoc Committee. Mr. Victor Slipchenko, United Nations Department for Disarmament Affairs, continued to serve as Secretary of the Ad Hoc Committee.

4. The organization of work of the Ad Hoc Committee, as well as the documentation presented to it, are described in its special report to the Conference on Disarmament (CD/820). In addition to the work described therein, during the second part of its 1988 session, the Ad Hoc Committee held two meetings on 15 July and on 26 August 1988, and the Chairman held a number of consultations with delegations.

5. At their request, the representatives of the following States not members of the Conference on Disarmament participated in the work of the Ad Hoc Committee: Austria, Denmark, Finland, Greece, Ireland, New Zealand, Norway, Portugal, Senegal, Spain, Switzerland, Turkey and Zimbabwe.

6. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Ad Hoc Committee had before it resolutions 42/38 B and F adopted by the General Assembly at its forty-second session entrusting specific responsibilities to the Conference on Disarmament on this subject.

7. In addition to the documents of previous sessions, as well as those of the first part of its 1988 session, the Ad Hoc Committee had before it the following new documents for consideration:

- CD/RW/WP.80, dated 15 July 1988, entitled "Timetable of meetings during the second part of the 1988 session"
- CD/RW/WP.81, dated 22 August 1988, entitled "Report of Contact Group A"
- CD/RW/WP.82, dated 15 August 1988, entitled "Report of Contact Group B".

III. WORK DURING THE 1988 SESSION

8. As mentioned above, the work carried out by the Ad Hoc Committee during the first part of the 1988 session is described in its special report to the Conference on Disarmament (CD/820).

9. At its fifth meeting on 15 July 1988, the Ad Hoc Committee decided to maintain the same method of work as was agreed at the beginning of the 1988 session, i.e., that contact group A would continue to consider issues relevant to the prohibition of radiological weapons in the "traditional" sense and contact group B would continue to consider issues relevant to the prohibition of attacks against nuclear facilities. Mr. Hadi Wayarabi of Indonesia and Mr. Csaba Györfy of Hungary continued to assist the Chair by serving as co-ordinators of the contact groups A and B, respectively.

10. At the same meeting, the Ad Hoc Committee took note of the letter addressed to the Secretary-General of the Conference on Disarmament by the IAEA Secretariat, conveying the Agency's readiness to provide technical assistance to the Conference in its work relating to the prohibition of armed attacks against nuclear installations, and agreed to keep the matter under review for its future work. At its sixth meeting on 26 August 1988, the Ad Hoc Committee took note of the reply, reflecting this position, sent by the Secretary-General to the IAEA Secretariat.

11. Following the work conducted within the contact groups, both formally and informally, the two co-ordinators presented to the Ad Hoc Committee, at its sixth meeting on 26 August 1988, their respective reports (CD/RW/WP.81 and 82) which are reproduced in Annexes I and II to this report, reflecting the current state of the consideration of the issues before the Ad Hoc Committee. It is understood that the contents of the Annexes are not binding on any delegation.

IV. CONCLUSIONS AND RECOMMENDATIONS

12. The work conducted by the Ad Hoc Committee during its 1988 session was useful in contributing further to the clarification of different approaches which continue to exist with regard to both the important subjects under consideration. It is recommended that the Conference on Disarmament should re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1989 session and that the Ad Hoc Committee should draw upon the Annexes to this report as a basis for its future work.

ANNEX I

Report of Contact Group A

1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its fifth meeting, on 15 July 1988, Contact Group A continued its consideration of the issues relevant to the prohibition of radiological weapons.
2. Contact Group A held three meetings from 25 July to 22 August 1988. In addition, the Co-ordinator held a number of informal consultations with delegations.
3. As was agreed at the fifth meeting of the Ad Hoc Committee, Contact Group A reviewed the Co-ordinator's record as contained in the Attachment to Annex I to the Special Report of the Ad Hoc Committee to the Conference on Disarmament (CD/820). Some new proposals were made in connection with the Attachment, which contributed to further clarification and elaboration of the positions held by various delegations on the issue.
4. The amended Co-ordinator's record is attached to the report, reflecting the current stage of the Contact Group's consideration.
5. The Co-ordinator's record is not binding upon any delegation and does not preclude any delegation from introducing proposals or alternatives to the text as a whole or the elements thereof, at a later stage. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

Attachment

POSSIBLE ELEMENTS FOR A CONVENTION ON THE
PROHIBITION OF RADIOLOGICAL WEAPONS */

SCOPE

First alternative

1. Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, transfer or use radiological weapons.
2. Each State Party to this Treaty also undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material, not defined as a radiological weapon in ... of this Treaty to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.
3. Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which the States Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs 1 and 2 of this Article.
4. Each State Party to this Treaty undertakes, in accordance with its constitutional procedures, to take any measures which it considers necessary anywhere under its jurisdiction or control:
 - (a) to prohibit and prevent any of the activities which for a State Party would constitute a violation of the obligations undertaken by the State Parties under this Treaty;
 - (b) to prohibit and prevent diversion to radiological weapons, or to the employment prohibited by paragraph 2 of this Article, of radioactive materials that might be used for such weapons or employment;
 - (c) to prevent loss of radioactive materials that might be used for such weapons or employment.

*/ These elements are not intended to prejudice the eventual positions of delegations regarding the question of "linkage".

5.* / Nothing in paragraph 4 above shall be interpreted as requiring or permitting a State Party to take measures which could affect the programmes of other States for the use 1/ of nuclear energy or technology for their economic or social development. 2/ 3/

Second alternative

1. Each State Party to this Treaty undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material to cause destruction, damage or injury by means of the radiation produced by the decay of such material.

2. Each State Party also undertakes not in any way to assist, encourage, or induce anyone to engage in the employment of radioactive material prohibited by paragraph 1.

3. Each State Party also undertakes to take any measures which it considers necessary:

(a) to prohibit and prevent the employment of radioactive material prohibited by paragraph 1;

(b) to prohibit and prevent diversion to the employment prohibited by paragraph 1 of radioactive materials that might be used for such employment;

(c) to prevent loss of radioactive materials that might be used for such employment.

4.* / Nothing in paragraph 3 above shall be interpreted as requiring or permitting a State Party to take measures which could affect the programmes of other States for the use 1/ of nuclear energy or technology for their economic or social development. 2/ 3/

Third alternative

1. Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, transfer or use radiological weapons.

2. Each State Party to this Treaty also undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material, not defined as a radiological weapon in ... of this Treaty to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

* / Some delegations expressed the view that consideration should be given to whether the concerns reflected in this paragraph should be addressed under the draft element "Peaceful Uses".

1/ Some delegations suggested that the word "peaceful" be inserted before the word "use".

2/ One delegation suggested the addition at the end of the paragraph of "in conformity with their priorities, interests and needs."

3/ A view was expressed that this commitment should provide for the fulfilment of nuclear safety conditions.

3. Each State Party to this Treaty also undertakes never under any circumstances to dump radioactive wastes in the territory of another State for hostile purposes or in armed conflict. 1/

4. Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which the States Parties to the Treaty have undertaken not to engage in under the provisions of paragraphs 1 and 2 of this Article.

5. Each State Party to this Treaty undertakes, in accordance with its constitutional procedures, to take any measures which it considers necessary anywhere under its jurisdiction or control:

(a) to prohibit and prevent any of the activities which for a State Party would constitute a violation of the obligations undertaken by the State Parties under this Treaty;

(b) to prohibit and prevent diversion to radiological weapons, or to the employment prohibited by paragraph 2 of this Article, of radioactive materials that might be used for such weapons or employment;

(c) to prevent loss of radioactive materials that might be used for such weapons or employment.

6.* / Nothing in paragraph 5 above shall be interpreted as requiring or permitting a State Party to take measures which could affect the programmes of other States for the use 2/ of nuclear energy or technology for their economic or social development. 3/ 4/

* / Some delegations expressed the view that consideration should be given to whether the concerns reflected in this paragraph should be addressed under the draft element "Peaceful Uses".

1/ Views were expressed that the provisions contained in this paragraph were already covered in paragraph 2 above as well as in paragraph 1 of the second alternative.

2/ Some delegations suggested that the word "peaceful" be inserted before the word "use".

3/ One delegation suggested the addition at the end of the paragraph of "in conformity with their priorities, interests and needs."

4/ A view was expressed that this commitment should provide for the fulfilment of nuclear safety conditions.

DEFINITIONS */

For the purposes of this Treaty:

The term "radiological weapon" means **/, ***/, ****/, *****/:

First alternative

- (i) Any device, including any weapon or equipment, specifically designed to employ radioactive material by disseminating it to cause destruction, damage, or injury by means of the radiation produced by the decay of such material;
- (ii) Any radioactive material specifically configured 1/ for employment, by its dissemination, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

Second alternative

Any device, including any weapon or equipment, specifically designed to employ radioactive material to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

*/ A view was expressed that the second alternative of "Scope" did not require any "definitions".

**/ A view was expressed that, for the purposes of this Treaty, it might be necessary to clarify what is meant by "radioactive materials".

***/ A view was expressed that the term "radiological weapons" might include the so-called particle beam weapons which give ionizing radiation in other ways than through radioactive decay.

****/ Some delegations expressed the view that "particle beam weapons" should not be treated as radiological weapons, that the definition of radiological weapons as contained in CD/31 and CD/32 is based on the decay of nuclear material, whereas directed energy devices produce particle beams without nuclear involvement, that known concepts of directed energy devices do not employ the radiation spectrum of radiological weapons but make use of protons and electrons while radiological weapons would exploit mainly gamma- and neutron-radiation as well as beta- and short ranging alpha-radiation, and that therefore, the development, production, stockpiling, acquisition or possession, transfer or use of directed energy devices is compatible with this Treaty.

*****/ Some delegations expressed the view that nothing in this Treaty shall be interpreted as in any way legitimizing the development, production, stockpiling, acquisition or possession, transfer or use of directed energy weapons.

1/ Some delegations preferred "prepared" or "designed" to "configured".

PEACEFUL USES

1. First alternative

Nothing in this Treaty should be interpreted 1/ as affecting in any way the full exercise of the inalienable rights of all States Parties to apply and develop their programmes for the peaceful 2/ uses of nuclear energy for economic and social development in conformity with their priorities, interests and needs. 3/

Second alternative

Nothing in this Treaty should be interpreted 1/ as affecting in any way the full exercise of the inalienable rights of all States Parties to apply and develop their programmes for the peaceful 2/ uses of nuclear energy for economic and social development in conformity with their priorities, interests and needs, and in accordance with mutually acceptable non-proliferation conditions.

Third alternative

Nothing in this Treaty should be interpreted as affecting the inalienable rights of the States Parties to this Treaty to develop and apply their programmes for the peaceful uses of nuclear energy for economic and social development, consistent with the need to prevent the proliferation of nuclear weapons, 4/ in conformity with their priorities, interests and needs.

2. First alternative

Each State Party undertakes to contribute 5/ to the strengthening of international co-operation in the peaceful uses of nuclear energy in conformity with 6/ the needs of developing countries. 3/

Second alternative

Each State Party undertakes to promote co-operation in the peaceful uses of nuclear energy in conformity with 6/ the needs of developing countries.

1/ A suggestion was made to insert "or implemented" after "interpreted".

2/ Some delegations suggested the deletion of "peaceful".

3/ A view was expressed that, in order to strike an inner balance conducive to consensus, there should be an addition reflecting the last sentence of paragraph 68 of the Final Document of SSOD I.

4/ Some delegations suggested "under international agreements" instead of ", consistent with the need to prevent the proliferation of nuclear weapons".

5/ Some delegations suggested the insertion of "to the fullest possible extent" after "contribute".

6/ A preference was expressed for "taking into account" instead of "in conformity with".

3. Each State Party undertakes to contribute to the fullest possible extent 1/ to the development of adequate measures of protection for all States against the harmful effects of radiation.

CESSATION OF THE NUCLEAR ARMS RACE
AND NUCLEAR DISARMAMENT

1. The State Parties to this Treaty undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons, and the achievement of nuclear disarmament. 2/
2. The implementation of these obligations should be periodically reviewed as provided for in Article 3/ 4/

OTHER MAIN ELEMENTS

1. The provisions of this Treaty shall not apply to nuclear explosive devices or to radioactive material produced by them. 5/
2. Nothing in this Treaty shall be interpreted as in any way legitimizing the use of nuclear weapons or detracting from the obligation of States to refrain from the use or threat of use of such weapons. 5/
3. First alternative

Nothing in this Treaty shall be interpreted as in any way limiting or detracting from existing rules of international law applicable in armed conflict or limiting or detracting from obligations assumed by the States Parties under any other international agreement.

Second alternative

Nothing in this Treaty shall be interpreted as in any way limiting or detracting from existing rules of international law applicable in armed conflict or limiting or detracting from obligations assumed by the States Parties under any other international agreement, consistent with the need to prevent the proliferation 6/ of nuclear weapons and the need to achieve urgent measures of nuclear disarmament.

1/ Some delegations suggested the insertion of "and in accordance with international undertakings" after "contribute to the fullest possible extent".

2/ Some delegations were of the view that such an undertaking was outside the purview of this Treaty.

3/ Questions were raised concerning the need for this paragraph.

4/ One delegation reserved its right to submit a proposal related to review conferences.

5/ Objections were raised concerning this paragraph.

6/ Some delegations preferred "vertical, horizontal and geographic proliferation" to "proliferation".

VERIFICATION AND COMPLIANCE */

First alternative

First Element

1. The States Parties to this Treaty undertake to consult one another and to co-operate in solving any problems which may be raised in relation to the objectives of, or in the application of the provisions of, the Treaty.
2. Consultation and co-operation pursuant to this article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a consultative committee and a fact-finding panel as provided for in article ... of this Treaty.
3. The States Parties to this Treaty shall exchange to the fullest possible extent, bilaterally or multilaterally, information deemed necessary to provide assurance of fulfilment of their obligations under the Treaty.

*/ Some delegations were of the view that the subject needs further consideration and reserved their right to express their view at a later stage.

Second Element

1. For the purpose of effective fulfilment of paragraph 2 of the previous article of this Treaty, a consultative committee and a standing fact-finding panel shall be established. Their functions and rules of procedure are established in Annexes I and II, respectively, which constitute integral parts of the Treaty.
2. Any State Party to this Treaty which has reasons to believe that any other State Party may not be in compliance with the provisions of the Treaty, or which has concerns about a related situation which may be considered ambiguous, and is not satisfied with the results of the consultations provided for under the previous article of the Treaty, may request the Depositary to initiate an inquiry to ascertain the facts. Such a request should include all relevant information, as well as all possible evidence supporting its validity.
3. For the purposes set forth in paragraph 2 of this article, the Depositary shall convene as soon as possible, and in any case within 10 days of the receipt of a request from any State Party, the standing fact-finding panel established pursuant to paragraph 1 of this article.
4. If the possibilities for fact-finding pursuant to paragraphs 2 and 3 of this article have been exhausted without resolution of the problem, [five or more States Parties] [any State Party] may request the Depositary to convene a meeting of the consultative committee of States Parties to consider the matter.
5. Each State Party to this Treaty undertakes to co-operate to the fullest possible extent with the consultative committee and with the fact-finding panel with a view to facilitating their work.
6. Each State Party to this Treaty undertakes to provide assistance, in accordance with the provisions of the Charter of the United Nations, to any State Party to the Treaty which has been harmed or is likely to be harmed as a result of violation of the Treaty.]
7. The provisions of this article shall not be interpreted as affecting the rights and duties of States Parties under the Charter of the United Nations, including bringing to the attention of the Security Council concerns about compliance with this Treaty.]

ANNEX I to Second Element

[Consultative Committee]

1. The consultative committee of States Parties [, in addition to establishing the fact-finding panel as provided for in annex II,] shall undertake to resolve any problem which may be raised by the [States Parties] [State Party] requesting a meeting of the committee. For this purpose, the assembled States Parties shall be entitled to request and receive any information which a State Party is in a position to communicate.
2. The work of the consultative committee shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this annex. The committee shall [decide procedural questions relative to the organization of its work] [take decisions], where possible by consensus, but otherwise by a majority of those present and voting. [There shall be no voting on matters of substance.] The chairman shall have no vote.
3. Any State Party may participate in the work of the consultative committee. Each representative on the committee may be assisted at meetings by advisers.
4. The Depositary or his representative shall serve as chairman of the committee.
5. The consultative committee shall be convened by its chairman[:
 - (a) within 30 days after entry into force of this Treaty for the purpose of establishing the standing fact-finding panel;
 - (b)] as soon as possible and in any case within 30 days after a request for a meeting pursuant to paragraph 4 of the second element.
6. Each State Party shall have the right, through the chairman, to request from States and from international organizations such information and assistance as the State Party considers desirable for the accomplishment of the committee's work.
7. A summary of any [problem-solving] meeting, incorporating all views and information presented during the meeting, shall be prepared. The chairman shall distribute the summary to all States Parties.

ANNEX II to Second Element

[Fact-Finding Panel]

1. The standing fact-finding panel shall undertake to make appropriate findings of fact and provide expert views relevant to any problem referred to it by the Depositary pursuant to paragraph 3 of the second element. [Pursuant to paragraph 5 of the second element, the fact-finding panel may carry out on-site investigations when necessary.]

[2. The fact-finding panel shall be composed of not more than 15 members representing States Parties:

(a) Ten members shall be appointed by the [chairman] [consultative committee] after consultation with States Parties. In selecting these members due regard shall be given to ensuring an appropriate geographical balance. Members shall be named for a two-year period, with five members being replaced each year;

(b) In addition, those permanent members of the United Nations Security Council who are parties to the Treaty shall also be represented on the fact-finding panel.]

[2. The fact-finding panel shall be composed of not more than (blank) members representing States Parties. Members of the initial panel shall be appointed by the [chairman, after consultation with States Parties,] [consultative committee] at its first meeting, one-third being named for one year, one-third for two years, and one-third for three years. Thereafter all members shall be named for a three-year period by the chairman [of the consultative committee, following principles decided by the committee during its first meeting and] after consultation with States Parties. In selecting the members, due regard shall be given to ensuring an appropriate geographical balance.]

3. Each member may be assisted by one or more advisers.

4. The Depositary or his representative shall serve as chairman of the panel[, unless the panel decides otherwise under the procedures established in paragraph 5 of this annex].

5. The work of the fact-finding panel shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this annex. [At the first meeting of the panel, to be held not later than 60 days after its establishment [by the consultative committee], the Depositary shall submit recommendations, based on consultations with States Parties and signatories, as to the organization of the work of the panel, including any necessary resources.] [The panel shall decide procedural questions relative to the organization of its work, where possible by consensus, but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.] [The panel shall take decisions, where possible by consensus, but otherwise by a majority of those present and voting.] The chairman shall have no vote.

6. Each member shall have the right, through the chairman, to request from States and from international organizations such information and assistance as the member considers desirable for the accomplishment of the work of the panel.

7. The State Party requesting the inquiry and any State Party against which the inquiry is directed shall have the right to [participate in the work of the panel] [be represented at meetings but may not take part in decisions], whether or not they are members of the panel.

8. The fact-finding panel shall, without delay, transmit to [the Depositary] [all States Parties] a report on its work, including its findings of fact and incorporating all views and information presented to the panel during its proceedings[.] [, together with such recommendations as it may deem appropriate. If the panel is unable to secure sufficient data for factual findings, it shall state the reasons for that inability.] [The Depositary shall distribute the report to all States Parties.]

Second alternative */

1. The States Parties to the Treaty undertake to consult one another and to co-operate in solving any problems which may arise in relation to the objectives of, or in the application of the provisions of, the Treaty. Consultation and co-operation pursuant to this paragraph may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Consultative Committee of Experts as provided for in paragraph 2 of this Article.

2. For the purposes set forth in paragraph 1 of this Article, the Depositary shall, within one month of the receipt of a request from any State Party, convene a Consultative Committee of Experts. Any State Party may appoint an expert to this Committee, whose functions and rules of procedure are set out in the Annex, which constitutes an integral part of the Treaty. The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all States Parties.

3. Any State Party to the Treaty which has reasons to believe that any other State Party is acting in breach of obligations deriving from the provisions of the Treaty may lodge a complaint with the Depositary, who shall immediately convene a Consultative Committee of Experts. Such a complaint should include all relevant information as well as all possible evidence supporting its validity.

*/ A view was expressed that the second alternative of Verification and Compliance should be read in conjunction with the second alternative of Scope based on the criterion of prohibition of use of methods of radiological warfare.

4. Any State Party to the Treaty undertakes to co-operate in carrying out any investigation which the Consultative Committee of Experts may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Depositary. The Consultative Committee of Experts shall inform the States Parties to the Treaty of the results of the investigation.

5. Each State Party to the Treaty undertakes to provide or support assistance, in accordance with the provisions of the Charter of the United Nations, to any Party to the Treaty which so requests, if the Consultative Committee of Experts decides that such Party has been harmed or is likely to be harmed as a result of violation of the Treaty.

ANNEX

1. The Consultative Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to Article ... of the Treaty by the State Party requesting the convening of the Committee.

2. The work of the Consultative Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this Annex. The Committee shall decide procedural questions relative to the organization of its work, where possible by consensus, but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.

3. The Depositary or his representative shall serve as the Chairman of the Committee.

4. Each expert may be assisted at meetings by one or more advisers.

5. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work.

ANNEX II

Report of Contact Group B

1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its fifth meeting, on 15 July 1988, Contact Group B continued its consideration of the issues relevant to the prohibition of attacks against nuclear facilities.

2. Contact Group B held three meetings from 18 July to 15 August 1988. In addition, the Co-ordinator held a number of informal consultations with delegations.

3. As was agreed at the fifth meeting of the Ad Hoc Committee, Contact Group B reviewed the Co-ordinator's record as contained in the Attachment to Annex II to the Special Report of the Ad Hoc Committee to the Conference on Disarmament (CD/820). Some new proposals were made in connection with the Attachment, which contributed to further clarification and elaboration of the positions held by various delegations on the issue.

4. The amended Co-ordinator's record is attached to the report, reflecting the current stage of the Contact Group's consideration.

5. The Co-ordinator's record is not binding upon any delegation and its main purpose is to facilitate future consideration. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

Attachment

POSSIBLE ELEMENTS RELEVANT TO THE PROHIBITION
OF ATTACKS AGAINST NUCLEAR FACILITIES */ **/

SCOPE (Purpose)

Paragraph 1 */ ***/

First alternative

Each State Party undertakes never under any circumstances to attack nuclear facilities covered by the provisions of this Treaty.

Second alternative

Each State Party undertakes never under any circumstances to attack any nuclear facility.

Third alternative *****/ *****/

Each State Party undertakes never under any circumstances to release and disseminate radioactive substances by attacking nuclear facilities covered by the provisions of this Treaty.

*/ This record does not prejudice the eventual positions of delegations relating to the question of "linkage", or the positions of delegations on the question of the need of having additional legal protection for nuclear facilities. As to the latter, a view was expressed that additional discussion on existing international agreements pertaining to the question is needed.

**/ The placement of the various alternatives in the text should not be regarded as indication of priority or the degree of their acceptability to the Committee.

***/ Some delegations suggested that the Scope should also cover an undertaking not to threaten to attack nuclear facilities.

****/ One delegation suggested that any of the alternatives of paragraph 1 of Scope should be read in conjunction with the second alternative of paragraph 2 of Definitions and the second alternative of Criteria.

*****/ Some delegations stated that the third alternative of Scope based on the criterion of mass destruction read in conjunction with the first alternative of paragraph 2 (Definitions), the first alternative of Criteria, the first alternative of paragraphs 1 to 6 (Register) as well as paragraph 1 and the second alternative of paragraph 2 (Special Marking) constitute one complete and consistent set of elements to be included in a draft Treaty.

*****/ Other delegations pointed out that the criterion of "mass destruction", on which the third alternative of Scope was based, was irrelevant to the purpose of the proposed Treaty. They also stated that besides other flaws, it would amount to legitimizing attacks on nuclear facilities which did not fulfil the arbitrarily defined specifications proposed by the authors of this criterion for such facilities to qualify for protection. A Treaty based on elements mentioned in the previous footnote would, therefore, be discriminatory against developing countries as their

Fourth alternative

Each State Party undertakes never under any circumstances to attack nuclear facilities subject to the specifications of this Treaty.

Paragraph 2

First alternative

Each State Party undertakes not in any way to assist, encourage or induce any person, State, group of States, or international organization to engage in any activity which the State Parties to the Treaty have undertaken not to engage in.

Second alternative

Each State Party undertakes not in any way to assist, encourage or induce anyone to attack nuclear facilities.

DEFINITIONS

Paragraph 1 */ **/

For the purposes of this Treaty, the term "attack" means any act which causes, directly or indirectly:

- (i) any damage to, or the destruction of, a nuclear facility; or
- (ii) any interference, interruption, impediment, stoppage or breakdown in the operation of a nuclear facility; or
- (iii) any injury to, or the death of, any of the personnel of a nuclear facility.

nuclear facilities, in many cases, did not come up to the proposed "threshold". Furthermore, such a Treaty would weaken the protection afforded to nuclear facilities under present international law which was not conditional upon their meeting any quantitative specifications. Consequently, such a Treaty would defeat the main purpose of concluding a new international agreement on this subject, which is to strengthen the present legal régime in this regard and to remove existing loopholes.

*/ Some delegations did not see the need for any definition of the word "attack". In their view, the definition is clearly linked to the unlimited scope of paragraph 1 of Scope.

**/ Other delegations were of the view that it would be necessary to define the word "attack" whichever alternative on Scope was eventually adopted.

Paragraph 2

First alternative

For the purpose of this Treaty, the term "nuclear facilities" means:

- (i) Nuclear reactors;
- (ii) Intermediate spent fuel storages;
- (iii) Reprocessing plants;
- (iv) Waste deposits; */ **/

which are included in a Register maintained by the Depositary. ***/

Second alternative

For the purpose of this Treaty, the term "nuclear facilities" means:

- (i) Nuclear reactors;
- (ii) Enrichment plants;
- (iii) Reprocessing plants;
- (iv) Other nuclear fuel cycle facilities;
- (v) Radioactive waste management facilities; and
- (vi) Facilities for the storage of nuclear fuels or radioactive wastes.

Third alternative

For the purpose of this Treaty, the term "nuclear facilities" means:

- (i) Nuclear reactors;
- (ii) Intermediate spent fuel storages;
- (iii) Reprocessing plants;

*/ Some delegations were of the view that this covers only intermediate waste deposits above ground.

**/ Some delegations suggested that since waste deposits generally mean those buried deep underground, only interim waste deposits above ground should be included.

***/ Some delegations opposed the idea of limiting the scope of the Treaty to nuclear facilities included in a Register.

- (iv) Waste deposits;
- (v) Temporary waste storages; and
- (vi) Installations for production of intensive sources of radiation.

Fourth alternative

A nuclear facility means a nuclear reactor or any other facility for the production, handling, treatment, processing or storage of nuclear fuel or other nuclear material.

CRITERIA */ **/

First alternative

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications:

- (i) They shall be stationary on land; ***/ ****/
- (ii) Nuclear reactors shall be designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned; *****/
- (iii) Intermediate spent fuel storages shall be designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (iv) Reprocessing plants shall be designed for containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (v) Waste deposits shall contain radioactive material exceeding 10^{17} [10^{18}] Bq.

*/ A view was expressed that should the second alternative of paragraph 1 of the Scope be agreed upon, the consideration of "criteria" was needed only to specify exceptions.

**/ Reservations were expressed as to the applicability of specifying power threshold for nuclear reactors and level of quality and quantity of radioactive materials for other facilities as mentioned in sub-paragraphs (iii), (iv), (v) and (vi) of first and second alternatives.

***/ Regarding (i) in first and second alternatives, a view was expressed that nuclear facilities other than those stationary on land should also be covered.

****/ A view was expressed that such nuclear facilities should not belong to weapons systems.

*****/ A view was expressed that the aspect of decommissioning has to be studied further.

Second alternative

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications:

- (i) They shall be stationary on land;
- (ii) They shall be used for peaceful purposes and subject to IAEA safeguards;
- (iii) Nuclear reactors shall be designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned;
- (iv) Intermediate spent fuel storages shall be designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (v) Reprocessing plants shall be designed for containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (vi) Waste deposits shall contain radioactive material exceeding 10^{17} [10^{18}] Bq.

Third alternative

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications:

- (i) Nuclear reactors designed for a thermal effect which could exceed 10 MW;
- (ii) Intermediate spent fuel storages designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (iii) Installations for reprocessing of nuclear spent fuel;
- (iv) Installations for production or use of substantial sources of gamma radiation designed to contain radioactive material whose gamma-radiation-dissipated power is equal to or greater than 6×10^{17} [10^{18}] Bq.Mev;
- (v) Nuclear fuel cycle waste deposits which contain radioactive material exceeding 10^{17} [10^{18}] Bq.

Fourth alternative

The provisions of paragraph 1 of Scope shall not apply to:

- (i) Nuclear reactors other than those which are stationary on land;
- (ii) Military nuclear facilities of nuclear weapon States.

Additional specification suggested to the above specifications */

The nuclear facilities mentioned in paragraph 2 of Definitions which are under the safeguards of the International Atomic Energy Agency are covered by the provisions of this Treaty.

*/ This refers either to the first, second or third alternative of Criteria. A view was expressed that the first, second or third alternative should become paragraph 1 of Criteria and this additional specification should become paragraph 2.

DEPOSITARY

The Depositary shall be the Secretary-General of the United Nations.

REGISTER */ **/

Paragraph 1

First alternative

The Depositary shall maintain a Register of nuclear facilities covered by the provisions of this Treaty and shall transmit certified copies thereof to each State Party to the Treaty.

Second alternative

The Depositary shall maintain a Register of nuclear facilities subject to the specifications of this Treaty and shall transmit certified copies thereof to each State Party to the Treaty.

Paragraph 2

First alternative

State Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

- (a) Details on the exact geographical location of the nuclear facility;
- (b) Identification of the type of nuclear facility, i.e. if it is a reactor, intermediate spent fuel storage, reprocessing plant or waste deposit;
- (c) Detailed specifications as applicable in accordance with Paragraph ... (Definition) and Paragraph ... (Criteria) of this Treaty.

Second alternative

State Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

- (a) Details on the exact geographical location of the nuclear facility;
- (b) Identification of the type of nuclear facility, i.e. if it is a reactor, intermediate spent fuel storage, reprocessing plant or waste deposit.

*/ Some delegations opposed the idea of limiting the scope of the Treaty to nuclear facilities included in a Register.

**/ Other delegations maintained that nuclear facilities covered by the provisions of this Treaty should be included in a Register.

Third alternative

State Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

- (a) Details on the exact geographical location of the nuclear facility;
- (b) Identification of the type of nuclear facility, i.e. if it is a nuclear reactor, enrichment plant, reprocessing plant, other nuclear fuel cycle facility, radioactive waste management facility or facility for the storage of nuclear fuels or radioactive wastes.

Paragraph 3

First alternative

Upon receipt of a request for an inclusion in the Register, the Depositary shall without delay initiate procedures to confirm that the information contained in the request is correct:

- (a) Through, to the extent possible, documentation from the IAEA; and/or
- (b) Through other means, including mission to the facility, when necessary.

For the purpose of carrying out the procedures in paragraph 3 (a) above the Depositary may, as it deems necessary, enter into agreement with the IAEA.

For the purpose of carrying out the procedures in paragraph 3 (b) above the Depositary shall, with the co-operation of State Parties to the Treaty, compile and maintain a list of qualified experts, whose services could be made available to undertake such missions.

Second alternative

Upon receipt of a request for an inclusion in the Register, the Depositary shall communicate it to all State Parties.

Paragraph 4

The Depositary shall include the facility in the Register as well as relevant details about the facility concerned, as soon as the information given in the request has been substantiated, and shall immediately notify State Parties to the Treaty of any new inclusion in the Register.

Paragraph 5

State Parties having nuclear facilities under their jurisdiction included in the Register shall immediately inform the Depositary of any change that may occur concerning the information given in the request.

Paragraph 6

The costs for implementing these procedures shall be borne by the requesting State.

SPECIAL MARKING */ **/

Paragraph 1

Nuclear facilities which are included in the Register shall bear Special Marking.

Paragraph 2

First alternative

A State Party may request the Depositary to mark its nuclear facilities referred to in paragraph 1 with the Special Marking.

Second alternative

A State Party may mark its nuclear facilities referred to in paragraph 1 with the Special Marking.

*/ Some delegations opposed the idea of limiting the scope of the Treaty to nuclear facilities having Special Marking.

**/ Other delegations maintained that nuclear facilities covered by the provisions of this Treaty should be included in a Register and might bear Special Marking.

VERIFICATION AND COMPLIANCE AND OTHER MAIN ELEMENTS

Paragraph 1

First alternative

A State Party may lodge a complaint with the Depositary */ in case it believes that any other State Party acted in breach of obligations deriving from the provisions of the Treaty. **/ Such complaint shall include all relevant information and all possible evidence supporting the validity of the complaint.

Second alternative

A State Party may lodge a complaint with the Depositary in case it believes that any of its nuclear facilities subject to the specifications of this Treaty was attacked by another State Party.

Third alternative

A State Party may lodge a complaint with the Depositary in case it believes that an attack has been carried out on any nuclear facility on its territory by any other State Party in breach of obligations deriving from the provisions of the Treaty. Such a complaint shall be accompanied by all possible evidence and other relevant information supporting the validity of the complaint.

Paragraph 2

First alternative

Within ... days of the receipt of a complaint from any State Party the Depositary may initiate an investigation of the alleged attack including arrangements for a fact-finding mission on or at the site, if possible, to ascertain the facts ***/ relevant to the complaint. The fact-finding panel shall transmit to the Depositary the summary of its findings of fact. ****/

*/ A view was expressed that procedures other than the one through the Depositary should also be considered.

**/ It was suggested to add after "Treaty" the words "related to its scope".

***/ A view was expressed that the task of the fact-finding mission would rather be to evaluate the damage caused to the facility.

****/ A view was expressed that a fact-finding mission will have to be carried out not on a routine basis but only if requested by the State Party concerned.

Second alternative

Immediately upon receipt of the complaint, the Depositary shall initiate an investigation to ascertain facts relevant to the complaint. Such an investigation shall include a fact-finding mission to or at the site of the nuclear facility concerned and to any other site as may be appropriate. The fact-finding mission shall submit its findings to the Depositary at the earliest possible date.

Paragraph 3

For purposes of carrying out a fact-finding mission the Depositary shall maintain a list of qualified experts, selected on as wide a political and geographical basis as possible, whose services may be available to undertake such missions.

Paragraph 4

States Parties undertake to co-operate in carrying out the investigation which the Depositary may initiate on a complaint received from any State Party. The Depositary shall inform the State Parties of the results of the investigation.

Paragraph 5

First alternative

The Depositary shall convene the Conference of States Parties to consider the report on the results of the investigation. */

Second alternative

The Depositary shall submit to States Parties a report on the results of the investigation carried out by him, including the findings of the fact-finding mission, and shall convene a conference of States Parties to consider the report and adopt such measures as may be appropriate.

Paragraph 6

First alternative

The continuing application of IAEA safeguards at a nuclear facility will form an essential part of the arrangements to verify that the facility is a peaceful nuclear facility within the meaning of the Treaty. **/ ***/

*/ A view was expressed that the Conference of States Parties should consider taking concrete measures on the basis of the report.

**/ It was stated that the application of IAEA safeguards was irrelevant to the objectives of this Treaty and that if anyway addressed, the issue belonged under the provisions for inclusion in the Register.

***/ The view was expressed that the application of IAEA safeguards could not verify that a nuclear facility was a peaceful one but rather that nuclear material remained in peaceful use.

Second alternative

The application of IAEA safeguards to a nuclear facility shall be of no relevance to the verification of compliance with obligations assumed by States Parties under this Treaty.

Third alternative

The determination that a facility is and remains a peaceful nuclear facility within the meaning of the Treaty shall be made by the application of IAEA safeguards. */ **/

Paragraph 7

States Parties undertake to provide or support assistance to any State Party harmed as a result of the violation of the Treaty. ***/

Paragraph 8

Provisions of this Treaty are without prejudice to the obligations of States Parties undertaken in other international instruments relevant to the subject of this Treaty.

*/ It was stated that the application of IAEA safeguards was irrelevant to the objectives of this Treaty and that if anyway addressed, the issue belonged under the provisions for inclusion in the Register.

**/ The view was expressed that the application of IAEA safeguards could not verify that a nuclear facility was a peaceful one but rather that nuclear material remained in peaceful use.

***/ A view was expressed that the obligation of States Parties to provide assistance was limited to the radiological damage caused by an attack.

HUNGARY

WORKING PAPER

Suggested Scopes for the Prohibition of Radiological Weapons

Assessing the negotiations on the Prohibition of Radiological Weapons and on the Prohibition of Attacks on Nuclear Facilities carried on in the Ad Hoc Committee on Radiological Weapons the Delegation of Hungary considers that an adequate amount of material has been accumulated in connection with the elements on the scope of prohibition of both tracks "A" and "B". The elements which could be included into the scope of the future instrument or instruments appear at present in the form of alternatives. At an appropriate stage of negotiations it becomes inevitable to start drawing up a single formulation for the scope of both subject matters. The present working paper represents an attempt - with illustration purposes - to suggest a practical solution for working out a single formulation for the scope for track "A" and "B" respectively based on the elements appearing in the working documents under consideration in the contact groups of the Ad Hoc Committee on Radiological Weapons.

I. Track "A"

Paragraph 1

Each State Party to this Treaty undertakes never under any circumstances to employ deliberately, by its dissemination, including its dumping, any radioactive material, to cause destruction, damage, or injury through the radiation produced by the natural decay of such material.

Paragraph 2

Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess:

(a) Any device, including any weapon or equipment, specifically designed to employ radioactive material by its dissemination, or dumping to cause destruction, damage, or injury through the radiation produced by the natural decay of such material;

(b) Any radioactive material specifically prepared, configured or designed for employment, by its dissemination or dumping, to cause destruction, damage, or injury through the radiation produced by the natural decay of such material.

Paragraph 3

Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which it has undertaken not to engage in under the provisions of the Treaty.

Paragraph 4

Each State Party to this Treaty undertakes, in accordance with its constitutional procedures, to take any measures which it considers necessary anywhere under its jurisdiction or control:

(a) to prohibit and prevent any of the activities which for a State Party would constitute a violation of the obligations undertaken by it under the provisions of this Treaty;

(b) to prohibit and prevent the diversion of radioactive materials that might be used for employment prohibited under the provisions of this Treaty;

(c) to prevent the loss of radioactive materials that might be used for employment prohibited under the provisions of this Treaty.

II. Track "B"

Paragraph 1

Each State Party to this Treaty undertakes never under any circumstances to attack nuclear facilities referred to in Paragraph ... thereby causing deliberately the release of the radioactive material contained therein.

(b) Any radioactive material specifically prepared, configured or designed for employment, by its dissemination or dumping, to cause destruction, damage, or injury through the radiation produced by the natural decay of such material.

Paragraph 3

Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which it has undertaken not to engage in under the provisions of the Treaty.

Paragraph 4

Each State Party to this Treaty undertakes, in accordance with its constitutional procedures, to take any measures which it considers necessary anywhere under its jurisdiction or control:

(a) to prohibit and prevent any of the activities which for a State Party would constitute a violation of the obligations undertaken by it under the provisions of this Treaty;

(b) to prohibit and prevent the diversion of radioactive materials that might be used for employment prohibited under the provisions of this Treaty;

(c) to prevent the loss of radioactive materials that might be used for employment prohibited under the provisions of this Treaty.

II. Track "B"

Paragraph 1

Each State Party to this Treaty undertakes never under any circumstances to attack nuclear facilities referred to in Paragraph ... thereby causing deliberately the release of the radioactive material contained therein.

CONFERENCE ON DISARMAMENT

CD/929
6 July 1989

Original: ENGLISH and SPANISH

PERU

DRAFT CONVENTION ON THE PROHIBITION OF ATTACKS AGAINST NUCLEAR INSTALLATIONS

States Parties to this Convention,

Reaffirming their commitment to maintain and strengthen international peace and security and to promote friendship and co-operation in their international relations;

Reaffirming the principle of the Charter of the United Nations according to which Members shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or any other manner inconsistent with the purposes of the United Nations;

Recalling article 56, paragraph 1 of the Additional Protocol to the Geneva Conventions of 12 August 1949, which inter alia, prohibits attacks against nuclear electrical generating stations;

Conscious of the need to promote confidence-building measures between States as a means of establishing international goodwill and mutual trust;

Bearing in mind the commitment assumed in the Final Document adopted by the General Assembly at its First special session devoted to Disarmament, on 1 July 1978, to make progress towards general and complete disarmament:

Have agreed as follows:

ARTICLE I

1. Each State Party undertakes to refrain from carrying out, encouraging or authorizing, attacks against the nuclear installations or facilities of any other State Party, or from participating therein in any way.

2. Each State Party shall also refrain from threatening to attack the nuclear installations or facilities of another State Party, whatever its intention may be and whether or not there is a latent risk of destruction or damage to those installations or facilities.

ARTICLE II

1. For the purpose of this Convention, a "nuclear installation or facility" means a nuclear reactor or any other installation or facility for the production, handling, treatment, processing or storage of nuclear fuel or other nuclear material, radioactive or not, situated within the territory of any State Party or under its jurisdiction and control.

2. Each State Party shall communicate to the Depositary before 31 March of each calendar year, the geographical location (latitude and longitude) of each of its nuclear installations or facilities, indicating its function or purpose. This information will remain valid until 31 March of the following calendar year.

ARTICLE III

The Depositary of this Convention shall be the Secretary-General of the United Nations. The Depositary shall maintain an annual Register of nuclear installations or facilities covered by the provisions of this Convention and shall transmit certified copies thereof to each State Party to the Convention before 31 May every year.

ARTICLE IV

1. A State Party may lodge a complaint with the Depositary against any other State Party that has acted in breach of its obligations deriving from the provisions of the Convention. Such a complaint shall include all relevant information and all possible evidence supporting the validity of the complaint.

2. Within 48 hours of the receipt of a complaint, the Depositary shall initiate, with the co-operation of qualified experts, an investigation, including arrangements for a fact-finding mission *in situ*.

3. States Parties undertake to co-operate in carrying out the investigation which the Depositary may initiate on a complaint received from any other State Party.

4. The report on the investigation carried out by the Depositary will be examined by the Conference of States Parties which will adopt such measures as may be appropriate. The Depositary shall convene the Conference of States Parties at the earliest possible date, but not later than 15 days following the submission of the report.

5. For the purposes of this Article, a list of qualified experts shall be established by the Depositary as soon as the Convention enters into force. It will consist of 15 qualified experts selected on as wide a political and geographical basis as possible.

ARTICLE V

This convention may not be subject to reservations.

ARTICLE VI

A State Party may provide assistance to any State Party harmed as a result of the violation of the obligations stipulated in this Convention.

ARTICLE VII

The Convention shall be open indefinitely for signature to all States. It is subject to ratification by signatory States, in accordance with their constitutional procedures. It shall enter into force upon the deposit of the 30th instrument of ratification. For each State Party whose instrument of ratification or accession is deposited after the entry into force of the Convention, it shall enter into force on the day of the deposit of its instrument of ratification or accession.

ARTICLE VIII

This convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations. The Depositary shall notify the States Parties of the signatories and ratifications to this convention.

DONE AT THIS DAY OF, ONE THOUSAND
NINE HUNDRED AND EIGHTY

CONFERENCE ON DISARMAMENT

CD/946
7 August 1989

Original: ENGLISH

REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 484th plenary meeting held on 7 February 1989, as contained in document CD/886, the Ad hoc Committee on Radiological Weapons was re-established, for the duration of the 1989 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad hoc Committee would report to it on the progress of its work before the conclusion of its 1989 session.

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At its 485th plenary meeting on 9 February 1989, the Conference on Disarmament appointed Ambassador Oswaldo de Rivero of Peru as Chairman of the Ad hoc Committee. Mr. Michael Cassandra of the United Nations Department for Disarmament Affairs served as Secretary of the Ad hoc Committee.

3. The Ad hoc Committee held six meetings from 20 February to 7 August 1989. In addition, the Chairman held a number of informal consultations with delegations.

4. At their request, the representatives of the following States not members of the Conference on Disarmament participated in the work of the Ad hoc Committee: Austria, Denmark, Finland, Greece, Ireland, New Zealand, Norway, Oman, Portugal, Qatar, Senegal, Spain, Switzerland, Turkey and Zimbabwe.

5. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Ad hoc Committee had before it resolutions 43/75 C and J adopted by the General Assembly at its forty-third session entrusting specific responsibilities to the Conference on Disarmament on this subject.

6. The following official documents were presented to the Conference on Disarmament:

CD/928, dated 6 July 1989, submitted by the delegation of Hungary, entitled "Suggested Scopes for the Prohibition of Radiological Weapons."

CD/929, dated 6 July 1989, submitted by the delegation of Peru, entitled "Draft Convention on Prohibition of attacks against nuclear installations."

7. The following working papers were presented to the Ad hoc Committee:

CD/RW/WP.83 dated 20 February 1989 entitled "Programme of Work for the first part of the 1989 session"

CD/RW/WP.84 dated 18 April 1989 entitled "Programme of work for the second part of the 1989 session"

CD/RW/WP.85 dated 24 July 1989 entitled "Report of Contact Group B"

CD/RW/WP.86 dated 31 July 1989 entitled "Report of Contact Group A"

III. WORK DURING THE 1989 SESSION

8. At its 1st meeting on 20 February 1989, the Chairman suggested that the Ad hoc Committee continue the same method of work adopted during the 1988 session: that is, that Contact Group A continue to consider the prohibition of radiological weapons in the "traditional" sense and that Contact Group B continue to consider issues relevant to the prohibition of attacks against nuclear facilities. */ He also recommended that the work of the two groups should be pursued along the lines recommended in the 1988 report of the Ad hoc Committee (CD/864) that is to draw upon the two annexes contained in that report as a basis for its work. In that connection, he suggested the Contact Groups attempt to further clarify and make concise the different approaches to the two issues through the reduction of the existing alternatives as well as the footnotes in those annexes. The Ad hoc Committee decided to follow the recommendations of the Chairman as regards its method of work.

9. At its 2nd meeting on 27 February, the Ad hoc Committee appointed Mr. Csaba Györfy of Hungary to co-ordinate the work of Contact Group A and Mr. Max Gevers of the Netherlands to co-ordinate the work of Contact Group B.

10. Also at its 2nd meeting, the Ad hoc Committee held a general exchange of views which confirmed that delegations were interested in pursuing the mandate of the Ad hoc Committee as had been agreed at the previous meeting. Thus, the work of the Ad hoc Committee was carried out in the Contact Groups as established above, except for the consideration and adoption of this report.

11. On the basis of the work conducted within the Contact Groups, the two co-ordinators presented to the Ad hoc Committee, at its 6th meeting on 7 August 1989, their respective reports (CD/RW/WP.86 and 85), which are reproduced in Annexes I and II to this report, reflecting the current state of consideration of the issues before the Ad hoc Committee. It is understood that the contents of the Annexes are not binding on any delegation.

*/ One delegation did not take part in the work on the prohibition of attacks against nuclear facilities.

IV. CONCLUSIONS AND RECOMMENDATIONS

12. The work conducted by the Ad hoc Committee during its 1989 session was useful in that it contributed to clarify and make more concise the different approaches which continue to exist with regard to both the important subjects under consideration. It is recommended that the Conference on Disarmament should re-establish the Ad hoc Committee on Radiological Weapons at the beginning of its 1990 session and that the Ad hoc Committee should draw upon the Annexes to this report as a basis for its future work.

ANNEX I

Report of Contact Group A

1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its 1st meeting, on 20 February 1989, Contact Group A was re-established to continue consideration of the issues relevant to the prohibition of radiological weapons.
2. Contact Group A held seven meetings from 6 March to 31 July 1989. In addition, the Co-ordinator held a number of informal consultations with delegations.
3. According to the guidelines set out during the 1st meeting of the Ad Hoc Committee, Contact Group A used as a basis for its substantive work the Co-ordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1988 (CD/864, Annex I, Attachment). The Contact Group reviewed the possible elements for a convention on the subject contained therein.
4. The amended Co-ordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.
5. The Co-ordinator's record is not binding upon any delegation and does not preclude any delegation from introducing proposals or alternatives to the text as a whole or the elements thereof at a later stage. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

Attachment

POSSIBLE ELEMENTS FOR A (CONVENTION) TREATY ON THE
PROHIBITION OF RADIOLOGICAL WEAPONS 1/

SCOPE

Paragraph 1

Each State Party to this Treaty undertakes never under any circumstances to develop, produce, stockpile, otherwise acquire or possess, transfer or use radiological weapons. 2/ 3/

Paragraph 2

First alternative

Each State Party to this Treaty also undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material, not defined as a radiological weapon in ... of this Treaty to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

Second alternative

Each State Party to this Treaty undertakes never under any circumstances to employ deliberately, by its dissemination, any radioactive material, to cause destruction, damage, or injury by means of the radiation produced by the decay of such material.

Paragraph 3

Each State Party to this Treaty also undertakes never under any circumstances to dump radioactive wastes in the territory of another State for hostile purposes or in armed conflict. 4/

1/ These elements are not intended to prejudice the eventual positions of delegations regarding the question of "linkage".

2/ Views were expressed that such a provision was not necessary.

3/ The term "radiological weapon" is defined under "Definitions".

4/ A view was expressed that the provisions contained in this paragraph are covered by paragraph 1 and by the two alternatives of paragraph 2.

Paragraph 4

First alternative

Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce any person, State, group of States, or international organization to engage in any of the activities which it has undertaken not to engage in under the provisions of the Treaty.

Second alternative

Each State Party to this Treaty also undertakes not in any way to assist, encourage, or induce anyone to engage in the employment of radioactive material prohibited under the provisions of (para. 2, second alternative).

Paragraph 5

First alternative

Each State Party to this Treaty undertakes, in accordance with its constitutional procedures, to take any measures which it considers necessary anywhere under its jurisdiction or control:

(a) to prohibit and prevent any of the activities which for a State Party would constitute a violation of the obligations undertaken by the States Parties under this Treaty;

(b) to prohibit and prevent diversion to radiological weapons, or to the employment prohibited by (para. 2, first alternative) of this Treaty of radioactive materials that might be used for such weapons or employment;

(c) to prevent the loss of radioactive materials that might be used for such weapons or employment.

Second alternative

Each State Party also undertakes to take any measures which it considers necessary:

(a) to prohibit and prevent the employment of radioactive material prohibited by (para. 2, second alternative);

(b) to prohibit and prevent diversion to the employment prohibited by (para. 2, second alternative) of radioactive materials that might be used for such employment;

(c) to prevent the loss of radioactive materials that might be used for such employment.

DEFINITIONS 1/

For the purposes of this Treaty the term "Radiological Weapon" means: 2/

(i) Any device, including any weapon or equipment, specifically designed to employ radioactive material by disseminating it to cause destruction, damage or injury by means of the radiation produced by the decay of such material.

(ii) Any radioactive material specifically configured 3/ for employment, by its dissemination, to cause destruction, damage or injury by the decay of such material.

PEACEFUL USES

Paragraph 1

First alternative

Nothing in this Treaty should be interpreted 4/ as affecting in any way the full exercise of the inalienable rights of all States Parties to apply and develop their programmes for the peaceful uses 5/ of nuclear energy for economic and social development in conformity with their priorities, interests and needs. 6/

Second alternative

Nothing in this Treaty shall be interpreted as affecting the inalienable rights of the States Parties to this Treaty to develop and apply their programmes for the peaceful uses of nuclear energy for economic and social development, consistent with the need to prevent the proliferation of nuclear weapons.

1/ A view was expressed that the alternative approach to the question of Scope, expressed in the second alternative of paragraph 2 and based on the criterion of the prohibition of the use of radioactive materials for hostile purposes did not require any definition.

2/ A view was expressed that, for the purposes of this Treaty, it might be necessary to clarify what is meant by "radioactive materials".

3/ Some delegations preferred "prepared" or "designed" to the word "configured".

4/ A suggestion was made to insert "or implemented" after "interpreted".

5/ Some delegations suggested the deletion of "peaceful".

6/ A view was expressed that, in order to strike an inner balance conducive to consensus, there should be an addition reflecting the last sentence of paragraph 68 of the Final Document of SSOD I.

Paragraph 2

Each State Party to this Treaty undertakes to contribute to the fullest possible extent to the strengthening and promotion of international co-operation in the field of the exchange and utilization for peaceful purposes of nuclear technology, radioactive materials and sources of radiation taking into account the particular needs of the developing countries. International co-operation in this field should be under agreed and appropriate international safeguards applied through the International Atomic Energy Agency on a non-discriminatory basis in order to prevent effectively the proliferation of nuclear weapons.

Paragraph 3

Each State Party to the Treaty undertakes to contribute to the fullest possible extent and in accordance with their international undertakings to international co-operation and assistance to ensure the development and effective implementation of adequate measures of protection for all States against the harmful effects of radiation.

Paragraph 4

Nothing in this Treaty shall be interpreted as requiring or permitting a State Party to take measures which could affect the programmes of other States for the peaceful uses of nuclear energy or technology for their economic or social development. 1/

CESSATION OF THE NUCLEAR ARMS RACE AND NUCLEAR DISARMAMENT

Paragraph 1

State Parties to this Treaty undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons and the achievement of nuclear disarmament. 2/ 3/

OTHER MAIN ELEMENTS

Paragraph 1

The provisions of this Treaty shall not apply to nuclear explosive devices or to radioactive material produced by them. 4/

1/ A view was expressed that this commitment should provide for the fulfilment of nuclear safety conditions.

2/ Some delegations were of the view that such an undertaking was outside the purview of this Treaty.

3/ A view was expressed that this subject might be better dealt with in the preambular part.

4/ Objections were raised against the need for this paragraph.

Paragraph 2

Nothing in this Treaty shall be interpreted as in any way legitimizing the use of nuclear weapons or detracting from the obligations of States to refrain from the use or threat of use of such weapons. 1/ 2/

Paragraph 3

The implementation of the obligations under this Treaty shall be periodically reviewed as provided for in ...

Paragraph 4

Nothing in this Treaty shall be interpreted as in any way limiting or detracting from existing rules of international law applicable in armed conflict or limiting or detracting from obligations assumed by the States Parties under other international agreements.

VERIFICATION AND COMPLIANCE 3/

Paragraph 1

The States Parties to this Treaty undertake to consult one another and to co-operate in solving any problems which may be raised in relation to the objectives of, or in the application of, the provisions of the Treaty.

Paragraph 2

First alternative

Consultation and co-operation pursuant to this Article may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Consultative Committee and a fact-finding panel as provided for in (para. 4, first alternative) of this Treaty.

Second alternative

Consultation and co-operation pursuant to this paragraph may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Consultative Committee of Experts as provided for in (para. 4, second alternative) of this Treaty.

1/ A view was expressed that this subject might be better dealt with in the preambular part.

2/ Objections were raised against the need for this paragraph.

3/ Some delegations were of the view that the subject needs further consideration and reserved their right to express their view at a later stage.

Paragraph 3

The States Parties to this Treaty shall exchange to the fullest possible extent, bilaterally or multilaterally, information deemed necessary to provide assurance of fulfilment of their obligations under the Treaty.

Paragraph 4

First alternative

For the purpose of the effective fulfilment of (para. 2, first alternative) of this Treaty, a Consultative Committee and a standing fact-finding panel shall be established. Their functions and rules of procedure are established in Annexes I and II respectively, which constitute integral parts of the Treaty.

Second alternative

For the purposes set forth in (para. 2, second alternative) the Depositary shall, within one month of the receipt of a request from any State Party, convene a Consultative Committee of Experts. Any State Party may appoint an expert to this Committee, whose functions and rules of procedure are set out in the Annex, which constitutes an integral part of the Treaty.

Paragraph 5

First alternative

Each State Party to this Treaty which has reasons to believe that any other State Party may not be in compliance with the provisions of the Treaty or which has concerns about a related situation which may be considered ambiguous, and is not satisfied with the results of the consultations provided for under (para. 1) of the Treaty, may request the Depositary to initiate an inquiry to ascertain the facts. Such a request should include all relevant information, as well as all possible evidence supporting its validity.

The Depositary shall convene as soon as possible, and in any case within 10 days of the receipt of a request from any State Party, the standing fact-finding panel established pursuant to (para. 4, first alternative).

If the possibilities for fact-finding pursuant to (paras. 2 and 6) have been exhausted without resolution of the problem, States Parties may request the Depositary to convene a meeting of the Consultative Committee of the States Parties to consider the matter.

Second alternative

Each State Party to the Treaty which has reasons to believe that any other State Party is acting in breach of obligations deriving from the provisions of the Treaty may lodge a complaint with the Depositary, who shall immediately convene a Consultative Committee of Experts. Such a complaint should include all relevant information as well as all possible evidence supporting its validity.

Paragraph 6

First alternative

Each State Party to this Treaty undertakes to co-operate to the fullest possible extent with the Consultative Committee and with the fact-finding panel with a view to facilitating their work.

Second alternative

Each State Party to this Treaty undertakes to co-operate to the fullest possible extent with the Consultative Committee of Experts, in accordance with the provisions of the Charter of the United Nations.

Paragraph 7

First alternative

Each State Party to this Treaty undertakes to provide assistance, in accordance with the provisions of the Charter of the United Nations, to any State Party to the Treaty which has been harmed or is likely to be harmed as a result of a violation of the Treaty.

Second alternative

Each State Party to the Treaty undertakes to provide or support assistance, in accordance with the provisions of the Charter of the United Nations, to any State Party to the Treaty which so requests, if the Consultative Committee of Experts decides that such Party has been harmed or is likely to be harmed as a result of a violation of the Treaty.

Paragraph 8

The provisions of Article ... shall not be interpreted as affecting the rights and duties of States Parties under the Charter of the United Nations, including bringing to the attention of the Security Council concerns about compliance with this Treaty.

ANNEX I

to (para. 4, first alternative)
of Verification and Compliance

[Consultative Committee]

1. The consultative committee of States Parties [, in addition to establishing the fact-finding panel as provided for in annex II,] shall undertake to resolve any problem which may be raised by the [States Parties] [State Party] requesting a meeting of the committee. For this purpose, the assembled States Parties shall be entitled to request and receive any information which a State Party is in a position to communicate.
2. The work of the consultative committee shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this annex. The committee shall [decide procedural questions relative to the organization of its work] [take decisions], where possible by consensus, but otherwise by a majority of those present and voting. [There shall be no voting on matters of substance.] The chairman shall have no vote.
3. Any State Party may participate in the work of the consultative committee. Each representative on the committee may be assisted at meetings by advisers.
4. The Depositary or his representative shall serve as chairman of the committee.
5. The consultative committee shall be convened by its chairman[:
 - (a) within 30 days after entry into force of this Treaty for the purpose of establishing the standing fact-finding panel;
 - (b)] as soon as possible and in any case within 30 days after a request for a meeting pursuant to paragraph 4 of the second element.
6. Each State Party shall have the right, through the chairman, to request from States and from international organizations such information and assistance as the State Party considers desirable for the accomplishment of the committee's work.
7. A summary of any [problem-solving] meeting, incorporating all views and information presented during the meeting, shall be prepared. The chairman shall distribute the summary to all States Parties.

ANNEX II

to (para. 4, first alternative)
of Verification and Compliance

[Fact-Finding Panel]

1. The standing fact-finding panel shall undertake to make appropriate findings of fact and provide expert views relevant to any problem referred to it by the Depositary pursuant to paragraph 3 of the second element. [Pursuant to paragraph 5 of the second element, the fact-finding panel may carry out on-site investigations when necessary.]
2. The fact-finding panel shall be composed of not more than 15 members representing States Parties:
 - (a) Ten members shall be appointed by the [chairman] [consultative committee] after consultation with States Parties. In selecting these members due regard shall be given to ensuring an appropriate geographical balance. Members shall be named for a two-year period, with five members being replaced each year;
 - (b) In addition, those permanent members of the United Nations Security Council who are parties to the Treaty shall also be represented on the fact-finding panel.]
2. The fact-finding panel shall be composed of not more than (blank) members representing States Parties. Members of the initial panel shall be appointed by the [chairman, after consultation with States Parties,] [consultative committee] at its 1st meeting, one third being named for one year, one third for two years, and one third for three years. Thereafter all members shall be named for a three-year period by the chairman [of the consultative committee, following principles decided by the committee during its 1st meeting and] after consultation with States Parties. In selecting the members, due regard shall be given to ensuring an appropriate geographical balance.]
3. Each member may be assisted by one or more advisers.
4. The Depositary or his representative shall serve as chairman of the panel [, unless the panel decides otherwise under the procedures established in paragraph 5 of this annex].
5. The work of the fact-finding panel shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this annex. [At the 1st meeting of the panel, to be held not later than 60 days after its establishment [by the consultative committee], the Depositary shall submit recommendations, based on consultations with States Parties and signatories, as to the organization of the work of the panel, including any necessary resources.] [The panel shall decide procedural questions relative to the organization of its work, where possible by consensus, but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.] [The panel shall take decisions, where possible by consensus, but otherwise by a majority of those present and voting.] The chairman shall have no vote.

6. Each member shall have the right, through the chairman, to request from States and from international organizations such information and assistance as the member considers desirable for the accomplishment of the work of the panel.

7. The State Party requesting the inquiry and any State Party against which the inquiry is directed shall have the right to [participate in the work of the panel] [be represented at meetings but may not take part in decisions], whether or not they are members of the panel.

8. The fact-finding panel shall, without delay, transmit to [the Depositary] [all States Parties] a report on its work, including its findings of fact and incorporating all views and information presented to the panel during its proceedings[.] [, together with such recommendations as it may deem appropriate. If the panel is unable to secure sufficient data for factual findings, it shall state the reasons for that inability.] [The Depositary shall distribute the report to all States Parties.]

ANNEX

to (para. 4, second alternative)
of Verification and Compliance

1. The Consultative Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to Article ... of the Treaty by the State Party requesting the convening of the Committee.

2. The work of the Consultative Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of this Annex. The Committee shall decide procedural questions relative to the organization of its work, where possible by consensus, but otherwise by a majority of those present and voting. There shall be no voting on matters of substance.

3. The Depositary or his representative shall serve as the Chairman of the Committee.

4. Each expert may be assisted at meetings by one or more advisers.

5. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work.

6. The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all States Parties.

ANNEX II

Report of Contact Group B

1. In accordance with the decision taken by the Ad hoc Committee on Radiological Weapons at its 1st meeting on 20 February 1989, Contact Group B was re-established to continue consideration of the issues relevant to the prohibition of attacks against nuclear facilities.
2. Contact Group B held seven meetings from 13 March to 24 July 1989. In addition, the Co-ordinator held a number of informal consultations with delegations.
3. According to guidelines set out during the 1st meeting of the Ad hoc Committee, Contact Group B used as a basis for its substantive work the Co-ordinator's record as contained in the Report of the Ad hoc Committee to the Conference on Disarmament in 1988 (CD/864, Annex II, Attachment). The Contact Group reviewed the possible elements relevant to the prohibition of attacks against nuclear facilities contained therein.
4. The amended Co-ordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.
5. The Co-ordinator's record is not binding upon any delegation and its main purpose is to facilitate future consideration. It is recommended that it be appended to the Ad hoc Committee's report to the Conference on Disarmament, as a basis for future work.

Attachment

POSSIBLE ELEMENTS RELEVANT TO THE PROHIBITION OF ATTACKS
AGAINST NUCLEAR FACILITIES */ **/

SCOPE

Paragraph 1

First alternative

Each State Party undertakes never under any circumstances to attack nuclear facilities covered by this Treaty.

Second alternative

Each State Party undertakes never under any circumstances to attack or to threaten to attack any nuclear facility.

Third alternative ***/

Each State Party undertakes never under any circumstances to release and disseminate radioactive substances by attacking nuclear facilities covered by this Treaty.

Paragraph 2

Each State Party undertakes not in any way to assist, encourage or induce any person, State, group of States, or international organization to act in contravention of this treaty.

*/ This record does not prejudice the eventual positions of delegations relating to the question of "linkage", or the positions of delegations on the question of the need of having additional legal protection for nuclear facilities. As to the latter, a view was expressed that additional discussion on existing international agreements pertaining to the question is needed.

**/ One delegation stated that, apart from the fact that the elements listed were controversial, the third alternative under Scope, paragraph 1 of the Definitions and the sections on Criteria and Special Marking were not essential to the elaboration of a convention. The section on Special Marking could have been recast within the section on Register. That was not, however, the case of the other elements mentioned, particularly the section on Criteria, which, in its opinion, seemed incompatible with the rule of jus cogens in article 2, paragraph 4, of the Charter of the United Nations.

***/ Some delegations stated that the third alternative of Scope based on the criterion of mass destruction read in conjunction with the first alternative of paragraph 2 of Definitions, paragraph 1 of Criteria, the first alternative of paragraph 1, paragraph 2, the first alternative of paragraph 3, and paragraphs 4 to 6 of Register as well as Special Marking constitute one complete and consistent set of elements to be included in a draft Treaty.

DEFINITIONS

Paragraph 1

For the purposes of this Treaty, the term "attack" means any act by a State which is designed to cause or causes, directly or indirectly:

- (i) any damage to, or the destruction of, a nuclear facility; or
- (ii) any interference, interruption, impediment, stoppage or breakdown in the operation of a nuclear facility; or
- (iii) any injury to, or the death of, any of the personnel of a nuclear facility.

Paragraph 2

First alternative

For the purpose of this Treaty, the term "nuclear facilities" means:

- (i) Nuclear reactors;
- (ii) Intermediate spent fuel storages;
- (iii) Reprocessing plants;
- (iv) Waste deposits, including temporary waste storages;
- (v) Installations for production or use of important and intensive sources of gamma radiation; */

which are included in a Register maintained by the Depositary.

Second alternative

A nuclear facility means a nuclear reactor or any other facility for the production, handling, treatment, processing or storage of nuclear fuel or other nuclear material.

*/ A view was expressed that this provision should be further refined.

CRITERIA

Paragraph 1 */

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications: **/

- (i) They shall be stationary on land; ***/ ****/
- (ii) Nuclear reactors; designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned;
- (iii) Intermediate spent fuel storages; designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (iv) Reprocessing plants; designed for containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (v) Waste deposits: containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (vi) Installations for production or use of intensive sources of gamma radiation: designed to contain radioactive material whose gamma-radiation-dissipated power is equal to or greater than 6×10^{16} [10^{17}] Bq x Mev.

Paragraph 2

Additional specification suggested to the above specifications:

Nuclear facilities mentioned in paragraph 2 of definitions, which are under the safeguards of the International Atomic Energy Agency are covered by the provision of this Treaty.

*/ This provision calls for further discussion.

**/ Views were expressed that nuclear facilities mentioned in paragraph 2 of Definitions shall be used for peaceful purposes and subject to IAEA safeguards.

***/ Views were expressed that nuclear facilities stationed in territorial waters and the exclusive economic zones should also be considered.

****/ Views were expressed that such nuclear facilities should not belong to weapons systems.

DEPOSITARY

The Depositary shall be the Secretary-General of the United Nations.

REGISTER

Paragraph 1

First alternative

The Depositary shall maintain a Register of nuclear facilities covered by this Treaty and shall transmit certified copies thereof to each State Party to the Treaty.

Second alternative

The Depositary shall maintain a Register of nuclear facilities covered by this Treaty and shall transmit certified copies thereof to each State Party to the Treaty. The register shall be updated at regular intervals.

Paragraph 2 */

State Parties requesting that nuclear facilities under their jurisdiction be included in the Registrar shall for each such facility communicate to the Depositary the following written information:

- (a) Details on the exact geographical location of the nuclear facility;
- (b) Identification of the type of nuclear facility, i.e. if it is a reactor, intermediate spent fuel storage, reprocessing plant, waste deposit including temporary waste storages or installations for production or use of important and intensive sources of gamma-radiation;
- (c) Detailed specifications as applicable in accordance with Paragraph 1 of Criteria of this Treaty. **/

Paragraph 3

First alternative

Upon receipt of a request for an inclusion in the Register, the Depositary shall without delay initiate procedures to confirm that the information contained in the request is correct:

*/ A view was expressed that information in the Register should include identification of the type of nuclear facility, i.e. if it is a nuclear reactor, enrichment plant, reprocessing plant, other nuclear fuel cycle facility, radioactive waste management facility or facility for the storage of nuclear fuels or radioactive wastes.

**/ Views were expressed that this matter required further clarification.

- (a) Through, to the extent possible, documentation from the IAEA; and/or

- (b) Through other means, including mission to the facility, when necessary.

For the purpose of carrying out the procedures in paragraph 3 (a) above the Depositary may, as it deems necessary, enter into agreement with the IAEA.

For the purpose of carrying out the procedures in paragraph 3 (b) above the Depositary shall, with the co-operation of State Parties to the Treaty, compile and maintain a list of qualified experts, whose services could be made available to undertake such missions.

Second alternative

Upon receipt of a request for an inclusion in the Register, the Depositary shall communicate it to all State Parties.

Paragraph 4

The Depositary shall include the facility in the Register as well as relevant details about the facility concerned, as soon as the information given in the request has been substantiated, and shall immediately notify State Parties to the Treaty of any new inclusion in the Register.

Paragraph 5

State Parties having nuclear facilities under their jurisdiction included in the Register shall immediately inform the Depositary of any change that may occur concerning the information given in the request.

Paragraph 6 */

The costs for implementing these procedures shall be borne by the requesting State.

SPECIAL MARKING

A State Party may mark its nuclear facilities included in the Register with Special Marking.

VERIFICATION AND COMPLIANCE AND OTHER MAIN ELEMENTS

Paragraph 1

First alternative

A State Party may lodge a complaint with the Depositary in case it believes that any other State party acted in breach of obligations deriving from this Treaty. Such complaint shall include all relevant information and all possible evidence supporting the validity of the complaint. This complaint procedure should not exclude others than through the depositary.

*/ Views were expressed that this provision calls for further discussion.

Second alternative

A State Party may lodge a complaint with the Depositary in case it believes that a nuclear facility on its territory has been attacked or is under threat of attack by any other State Party in breach of obligations deriving from the provisions of the Treaty. Such a complaint shall be accompanied by all possible evidence and other relevant information supporting the validity of the complaint.

Paragraph 2

First alternative

Within ... days of the receipt of a complaint from any State Party the Depositary shall initiate an investigation to ascertain facts relevant to the complaint. Such an investigation may include a fact-finding mission to or at the site of the nuclear facility concerned and to any other site as may be appropriate. The fact-finding mission shall submit its findings to the Depositary within ... days.

Second alternative

Within ... days of the receipt of a complaint from any State Party concerning an attack on a nuclear facility, the Depositary shall initiate an investigation of the alleged attack, including arrangements for a fact-finding mission on or at the site of the nuclear facility involved to ascertain the facts. The fact finding mission shall submit the summary of its findings of fact to the Depositary at the earliest possible date.

Paragraph 3

For purposes of carrying out a fact-finding mission the Depositary shall maintain a list of qualified experts, selected on as wide a political and geographical basis as possible, whose services may be available to undertake such missions.

Paragraph 4

States Parties undertake to co-operate in carrying out the investigation which the Depositary may initiate on a complaint received from any State Party. The Depositary shall inform the State Parties of the results of the investigation.

Paragraph 5

The Depositary shall, upon request of a State Party, convene the Conference of States Parties to consider the report on the results of the investigation and consider possible courses of action.

Paragraph 6

First alternative

The continuing application of IAEA safeguards at a nuclear facility will form an essential part of the arrangements to verify that the facility is a peaceful nuclear facility within the meaning of the Treaty. */ **/

Second alternative

The determination that a facility is and remains a peaceful nuclear facility within the meaning of the Treaty shall be made by the application of IAEA safeguards. */ **/

Third alternative

The application of IAEA safeguards to a nuclear facility shall be of no relevance to the verification of compliance with obligations assumed by States Parties to this Treaty.

Paragraph 7 ***/

States Parties undertake to provide or support assistance to any State Party harmed as a result of the violation of the Treaty.

Paragraph 8

Provisions of this Treaty are without prejudice to the obligations of State Parties undertaken in other international instruments relevant to the subject of this Treaty.

*/ It was stated that the application of IAEA safeguards was irrelevant to the objectives of this Treaty and that if anyway addressed, the issue belonged under the provisions for inclusion in the Register.

**/ The view was expressed that the application of IAEA safeguards could not verify that a nuclear facility was a peaceful one but rather that nuclear material remained in peaceful use.

***/ A view was expressed that the obligation of States Parties to provide assistance was limited to the radiological damage caused by an attack.

to the Treaty on the Non-Proliferation of Nuclear Weapons that their own renunciation of nuclear weapons called for a response in an equally binding form, they pointed out that one of the difficulties in coming to a single common formula for negative security assurances is that the same assurances would be offered to all States, including those who refused to give a binding form to their non-proliferation undertakings. These States reiterated that the existing assurances, whilst not enshrined in a treaty or convention, nevertheless were solemnly given and are not to be considered as having no weight; they stand as firm, credible and reliable commitments. One of those three nuclear-weapon States at a plenary meeting reiterated its oft publicly stated commitment not to use nuclear weapons against any non-nuclear-weapon State, party to the NPT or any comparable internationally binding commitment not to acquire nuclear explosive devices, except in the case of an attack on this State, its territories or armed forces, or its allies, by such a State allied to a nuclear-weapon State or associated with a nuclear-weapon State in carrying out or sustaining the attack.

"16. Another of those nuclear-weapon States recalled that its unilateral declaration of negative security assurance was based on the principles of its constant defence policy and of the Charter of the United Nations. It considered that a legally-binding commitment in an international instrument should be mutual, derive from the principle of non-use of force except for self-defence and take account of the real military situations of States.

"17. One nuclear-weapon State considered it entirely reasonable and legitimate for the non-nuclear-weapon States, who were committed not to possess nuclear weapons in various ways, to demand that nuclear-weapon States undertake not to use or threaten to use nuclear weapons against them. It also expressed its hope to expedite the search for a common formula which would meet the needs of security of the non-nuclear-weapon States in this regard, and its support of the conclusion of an international convention which could genuinely prevent the use or threat of use of nuclear weapons against non-nuclear-weapon States and nuclear-weapon-free zones. It stated that it would welcome any constructive initiative agreeable to non-nuclear-weapon States. This same State was of the view that the most effective security guarantee for non-nuclear-weapon States against the use or threat of use of nuclear weapons was the complete prohibition and total elimination of nuclear weapons. Pending the achievement of this goal, this State believed that all nuclear-weapon States should undertake not to use or threaten to use nuclear weapons against non-nuclear-weapon States and nuclear-weapon-free zones under any circumstances. The same State reiterated its commitment that at no time and under no circumstances would it be the first to use nuclear weapons and that it would not use or threaten to use nuclear weapons against non-nuclear-weapon States.

"18. Discussions on the conclusions that could be drawn from the work of the Committee this session of the possibilities of reaching agreement on a common formula to guarantee non-nuclear-weapon States against the use or threat of use of nuclear weapons had again proven inconclusive. Some delegations

underlined the importance of making progress on these issues, in the light of the forthcoming Fourth Review Conference of the States parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

"IV. Conclusions and recommendations

"19. The Ad Hoc Committee reaffirmed that non-nuclear-weapon States should be effectively assured by the nuclear-weapon States against the use or threat of use of nuclear weapons pending effective measures of nuclear disarmament. Work on the substance of the effective arrangements and discussion on various aspects and elements of a solution, together with the series of informal consultations by the Chairman revealed that specific difficulties relating to differing perceptions of security interests of nuclear-weapon States and non-nuclear-weapon States persisted and that the complex nature of the issues involved continued to prevent agreement on a 'common formula'. In the course of the year many positive political changes were underway which were expected to have a bearing on the search for possible solutions. At the same time, the discussion underlined that all delegations supported and reaffirmed their readiness to continue the search for a common approach on the substance of negative security assurances and, in particular, on such a 'common formula'.

"20. Against the aforementioned background the Ad Hoc Committee recommends to the Conference on Disarmament that ways and means should continue to be pursued in the light of the on-going and future developments to overcome the difficulties encountered in its work in carrying out negotiations on the question of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons. Accordingly, it was generally agreed that the Ad Hoc Committee should be re-established at the beginning of the 1991 session."

G. New Types of Weapons of Mass Destruction and New Systems of Such Weapons; Radiological Weapons

122. The item on the agenda entitled "New Types of Weapons of Mass Destruction and New Systems of Such Weapons; Radiological Weapons" was considered by the Conference, in accordance with its programme of work, during the periods 2-6 April and 30 July-3 August 1990.

123. The list of documents presented to the Conference during its 1990 session under the agenda item is contained in the report submitted by the Ad Hoc Committee referred to in the following paragraph.

124. At its 574th plenary meeting on 16 August 1990, the Conference adopted the report of the Ad Hoc Committee re-established by the Conference under the agenda item at its 532nd plenary meeting (see paragraph 9 above). That report (CD/1027) is an integral part of this report and reads as follows:

"I. INTRODUCTION

"1. In accordance with the decision taken by the Conference on Disarmament at its 532nd plenary meeting held on 6 February 1990, as contained in document CD/965, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1990 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of its 1990 session.

"II. ORGANIZATION OF WORK AND DOCUMENTATION

"2. At that same plenary meeting on 6 February 1990, the Conference on Disarmament appointed Ambassador Istvan Varga of Hungary as Chairman of the Ad Hoc Committee. Mr. Michael Cassandra of the United Nations Department for Disarmament Affairs served as Secretary of the Ad Hoc Committee.

"3. The Ad Hoc Committee held four meetings from 1 March to 3 August 1990. In addition, the Chairman held a number of informal consultations with delegations.

"4. At their request, the representatives of the following 21 States not members of the Conference on Disarmament were invited to participate in the work of the Ad Hoc Committee: Austria, Denmark, Finland, Greece, Iraq, Israel, Kuwait, Malaysia, New Zealand, Norway, Portugal, Qatar, Senegal, Spain, Syria, Switzerland, Turkey, United Arab Emirates, Uruguay, Viet Nam and Zimbabwe.

"5. In addition to various resolutions adopted by the General Assembly on the subject at its previous sessions, the Ad Hoc Committee had before it resolutions 44/116A, R and T adopted by the General Assembly at its forty-fourth session entrusting specific responsibilities to the Conference on Disarmament on this subject.

"6. The following working papers were presented to the Ad Hoc Committee:

CD/RW/WP.87/Rev.2 dated 19 March 1990 entitled 'Programme of Work for the first part of the 1990 session'

CD/RW/WP.88/Rev.1 dated 18 June 1990 entitled 'Programme of work for the second part of the 1990 session'

CD/RW/WP.89 dated 31 July 1990 entitled 'Report of Contact Group A'

CD/RW/WP.90 dated 31 July 1990 entitled 'Report of Contact Group B'

"III. WORK DURING THE 1990 SESSION

"7. At its 1st meeting on 1 March 1990, the Chairman suggested that the Ad Hoc Committee continue the same method of work adopted during the 1987, 1988 and 1989 sessions: that is, that Contact Group A continue to consider the prohibition of radiological weapons in the 'traditional' sense and that Contact Group B continue to consider issues relevant to the prohibition of attacks against nuclear facilities. */ He also recommended that the work of the two groups should be pursued along the lines recommended in the 1989 report of the Ad Hoc Committee (CD/946), that is, to draw upon the two annexes contained in that report as a basis for its work. The Chairman suggested that the main objective of the work in 1990 be to seek solutions for outstanding key issues in both tracks. To that end, he pointed most importantly to the need for a resolution of the issues related to scope in both tracks as well as to the need for refinement of the provisions dealing with verification and compliance. He suggested that both Contact Groups record the results of their work in an up-dated version of their respective texts annexed to last year's Ad Hoc Committee report. The Ad Hoc Committee decided to follow the recommendations of the Chairman as regards its method of work.

"8. At the same meeting, the Ad Hoc Committee appointed Mr. Helmut Herzbruch of the Federal Republic of Germany to co-ordinate the work of Contact Group A and Mr. Hassan G. Mashhadi of the Islamic Republic of Iran to co-ordinate the work of Contact Group B.

"9. The work of the Ad Hoc Committee was carried out in the Contact Groups as established above, except for the consideration and adoption of this report. On the basis of the work conducted within the Contact Groups, the two Co-ordinators presented to the Ad Hoc Committee, at its 4th meeting on 3 August 1990, their respective reports (CD/RW/WP.89 and 90), which are reproduced in Annexes I and II to this report, reflecting the current state of consideration of the issues before the Ad Hoc Committee. It is understood that the contents of the Annexes are not binding on any delegation.

"IV. CONCLUSIONS AND RECOMMENDATIONS

"10. The work conducted by the Ad Hoc Committee during its 1990 session was useful in contributing further to the clarification of different approaches which continue to exist with regard to both the important subjects under consideration. It is recommended that the Conference on Disarmament re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1991 session and that the Ad Hoc Committee draw upon the Annexes to this report as a basis for its future work.

*/ One delegation did not take part in the work on the prohibition of attacks against nuclear facilities.

"ANNEX I

"Report of Contact Group A

"1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its first meeting, on 1 March 1990, Contact Group A was re-established to continue consideration of the issues relevant to the prohibition of radiological weapons.

"2. Contact Group A held eight meetings from 8 March to 30 July 1990. In addition, the Co-ordinator held a number of informal consultations with delegations.

"3. According to the guidelines set out during the first meeting of the Ad Hoc Committee, Contact Group A used as a basis for its substantive work the Co-ordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1989 (CD/946, Annex I, Attachment). In addition, several informal working papers were put forward by delegations and by the Chair. The Contact Group reviewed the possible elements for a convention on the prohibition of radiological weapons. In the course of that review, numerous proposals were made to develop these elements.

"4. As a result, the Contact Group was able to eliminate most footnotes as well as to merge different alternatives into common language for those elements dealing with scope and peaceful uses; new provisions were introduced for other main elements. Further, a preambular section and a new element on verification and compliance were developed and added. Nevertheless, footnotes and brackets in the Co-ordinator's record indicate that not all problems could be solved during the 1990 negotiating period.

"5. The Co-ordinator's record, entitled 'Draft Articles for a Convention on the Prohibition of Radiological Weapons', is attached to the report and reflects the current stage of the Contact Group's consideration of the question.

"6. The Co-ordinator's record is not binding upon any delegation and does not preclude any delegation from introducing proposals to the text as a whole or the elements thereof at a later stage. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

"Attachment

"DRAFT ARTICLES FOR A CONVENTION ON THE
PROHIBITION OF RADIOLOGICAL WEAPONS

"PREAMBLE

"The States Parties to this Convention, hereinafter referred to as the 'Parties to the Convention',

"desiring to contribute to the realization of the purposes and principles of the Charter of the United Nations,

"determined to act with a view to achieving progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction as well as the development of new types of such weapons as radiological weapons,

.....

"bearing in mind that the prohibition of radiological weapons is a step in the process towards general and complete disarmament,

"further bearing in mind longlasting effects of radioactive contamination on living creatures as well as on the environment,

"Have agreed as follows:

"I. SCOPE

"Paragraph 1

"Each Party to the Convention undertakes to prohibit radiological weapons and hence never under any circumstances

"(a) to disseminate deliberately any radioactive material, including radioactive waste, for the purpose of causing injury, death, damage or destruction by means of the radiation produced directly or indirectly by the decay of such material,

"(b) to develop, produce, stockpile, otherwise acquire, possess or transfer any device specifically designed for the dissemination of radioactive material prohibited under (a) of this paragraph.

"Paragraph 2

"Each Party to the Convention undertakes to take any measures it considers necessary in accordance with its constitutional procedures and its international obligations anywhere under its jurisdiction or control to

"(a) prohibit and prevent any activity which would constitute a violation of the obligations undertaken by the Parties to the Convention,

"(b) prohibit the diversion and prevent the loss of radioactive material which could be used for purposes prohibited by this Convention.

"Paragraph 3

"Each Party to the Convention undertakes not to assist, encourage or induce anyone to engage in activities prohibited by the provisions of the Convention.

"[II. DEFINITIONS

"For the purposes of this Convention the term 'radiological weapon' means:

"(i) any device specifically designed for the dissemination of radioactive material to cause [as its primary effect] injury, death, damage or destruction by means of the decay of such material,

"(ii) any radioactive material specifically designed and prepared for employment, by its dissemination, to cause injury, death, damage or destruction by the decay of such material,

"(iii) any other radioactive material if used for employment by its dissemination to cause injury, death, damage or destruction by the decay of such material.]

"III. PEACEFUL USES

"Paragraph 1

"Nothing in this Convention should be interpreted as affecting in any way

"(a) the full exercise of the inalienable rights of all Parties to the Convention, without discrimination, to develop, acquire and use nuclear technology, equipment and materials for the peaceful use of nuclear energy and all peaceful applications of their nuclear programmes for economic and social development in accordance with their national priorities, needs and interests, bearing in mind the need to prevent the proliferation of nuclear weapons in all its forms. International co-operation in the peaceful uses of nuclear energy should be conducted under agreed and appropriate international safeguards applied on a non-discriminatory basis,

"(b) the undertakings of Parties to the Convention to contribute to the fullest possible extent to international co-operation and assistance to ensure the development and effective implementation of adequate measures of protection for all States against the harmful effects of radiation.

"Paragraph 2

"Nothing in this Convention shall be interpreted as requiring or permitting a Party to the Convention to take measures which could affect the programmes of other States for peaceful uses of nuclear energy or technology for their economic or social development.

"IV. OTHER MAIN ELEMENTS

"Paragraph 1

"The provisions of this Convention shall not apply to nuclear explosive devices or to radioactive material produced by them. 1/

"Paragraph 2

"Nothing in this Convention shall be interpreted as in any way legitimizing the development and the use of nuclear weapons or detracting from the obligations of States to refrain from the use or threat of use of such weapons. 1/ 2/

"Paragraph 3

"Parties to the Convention undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons and the achievement of nuclear disarmament. 2/ 3/

"Paragraph 4

"Nothing in this Convention shall be interpreted as in any way limiting or detracting from rules of international law, including

"(a) the Charter of the United Nations,

"(b) law applicable to armed conflicts,

"(c) obligations assumed by Parties to the Convention under other international agreements.

"1/ Objections were raised against the need for this paragraph.

"2/ A view was expressed that this subject might be better dealt with in the preambular part.

"3/ Some delegations were of the view that such an undertaking was outside the purview of this Convention.

"Paragraph 5

"The implementation of the obligations under this Convention shall be periodically reviewed as provided for in ...

"Paragraph 6 1/

"Each Party to the Convention in a position to do so [undertakes to] [may] provide or support technical and humanitarian assistance, in accordance with the provisions of the Charter of the United Nations, to any Party to the Convention which so requests, as a result of a violation of the Convention or the use of radiological weapons by States not being Parties to the Convention,

"[(a) if the [Security Council] [Depositary] decides that such Party has been harmed or is likely to be harmed or

"(b) on the basis of independent bilateral or multilateral agreements.]

"Paragraph 7

"The Secretary-General of the United Nations shall be the Depositary of this Convention.

"V. VERIFICATION AND COMPLIANCE

"Paragraph 1

"Parties to the Convention shall exchange to the fullest possible extent, bilaterally or multilaterally, information necessary to provide assurance of fulfilment of their obligations under the Convention.

"Paragraph 2

"Parties to the Convention undertake to consult one another and to co-operate in solving any problems which may be raised in relation to the objectives of, or in the application of, the provisions of the Convention.

"Consultation and co-operation pursuant to this paragraph may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Committee of Experts. For these purposes the Depositary shall, within one month of the receipt of a request from any State Party to the Convention, convene a Committee of Experts.

"1/ Views were expressed that the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency should be further considered in this context.

"Paragraph 3

"Each Party to the Convention which has reasons to believe that any other Party to the Convention is acting in breach of the obligations deriving from the provisions of the Convention may lodge a complaint with the Depositary. Such a complaint shall include all relevant information as well as all possible evidence supporting its validity. In order to evaluate such information, the Depositary may convene the Committee of Experts.

"The Depositary, assisted by the Committee of Experts, shall [to the extent possible] conduct an investigation of the alleged facts, whenever the evaluation of the information provided to him indicates that such an investigation is warranted.

"The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all Parties to the Convention and shall indicate his own conclusions and suggestions for possible action [including that of bringing the matter to the attention of the Security Council.] In case of urgency, the Depositary may request the Committee to submit its report within 10 days.

"Paragraph 4

"Each Party to the Convention undertakes to co-operate to the fullest possible extent with the Committee of Experts, in accordance with the provisions of the Charter of the United Nations.

"Paragraph 5

"The functions and rules of procedure of the Committee of Experts mentioned in the above Paragraphs 2, 3, and 4 are set out in the Annex, which constitutes an integral part of the Convention.

"Paragraph 6

"The provisions of Paragraph 3 of this section shall not be interpreted as affecting the rights and duties of Parties under the Charter of the United Nations, including bringing to the attention of the Security Council concerns about compliance with this Convention.

"ANNEX

"1. The Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to the Convention by the Party requesting the convening of the Committee. It may be requested by the Depositary to carry out investigations in case of complaints lodged by a Party to the Convention.

"2. The work of the Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in Paragraph 1 of the Annex. In the process of such [fact finding] [investigations] every effort should be made to apply appropriate methods and procedures which are non-discriminatory and which do not unduly interfere with the internal affairs of other States or jeopardize their economic and social development.

"3. The Depositary shall compile and maintain a list of qualified experts whose services may be available for such [missions] [investigations] on the basis of the proposals which had been made to him by Parties to the Convention. The Depositary shall appoint members of the Committee of Experts from that list with due regard to ensuring appropriate geographical balance and to the character of the question involved.

"4. The Depositary or his representative shall serve as the Chairman of the Committee.

"5. Each expert may be assisted at meetings by one or more advisers.

"6. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work. Each Party undertakes not to use deliberate concealment measures which impede verification of compliance with the Convention.

REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 578th plenary meeting held on 24 January 1991, as contained in document CD/1051, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1991 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of its 1991 session.

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At that same plenary meeting, the Conference on Disarmament appointed Mr. Angus W.J. Robertson of Canada as Chairman of the Ad Hoc Committee. Mr. Michael Cassandra of the United Nations Department for Disarmament Affairs served as Secretary of the Ad Hoc Committee.

3. The Ad Hoc Committee held six meetings from 25 February to 12 August 1991. In addition, the Chairman held a number of informal consultations with delegations.

4. At their request, the representatives of the following 25 States not members of the Conference on Disarmament were invited to participate in the work of the Ad Hoc Committee: Angola, Austria, Chile, Costa Rica, Denmark, Finland, Greece, Iraq, Israel, Jordan, Kuwait, Malaysia, New Zealand, Norway, Oman, Portugal, Qatar, Senegal, Spain, Switzerland, Syrian Arab Republic, Turkey, United Arab Emirates, Uruguay and Zimbabwe.

5. In addition to various resolutions adopted by the United Nations General Assembly on the subject at its previous sessions, the Ad Hoc Committee had before it resolutions 45/58F and J adopted by the General Assembly at its forty-fifth session entrusting specific responsibilities to the Conference on Disarmament on this subject.

6. The following working papers were presented to the Ad Hoc Committee:

CD/RW/WP.91 dated 4 March 1991 entitled "Programme of Work for the 1991 session"

CD/RW/WP.92 dated 13 August 1991 entitled "Report of Contact Group A"

CD/RW/WP.93 dated 13 August 1991 entitled "Report of Contact Group B"

III. WORK DURING THE 1991 SESSION

7. At its 1st meeting on 25 February 1991, at the suggestion of the Chairman, the Ad Hoc Committee agreed that it continue the same method of work adopted since 1987, that is, that Contact Group A continue to consider the prohibition of radiological weapons in the "traditional" sense and that Contact Group B continue to consider issues relevant to the prohibition of attacks against nuclear facilities. */ He also recommended that the work of the two groups should be pursued as recommended in the 1990 report of the Ad Hoc Committee (CD/1027), that is, to draw upon the two annexes contained in that report as a basis for its work.

8. At the same meeting, the Ad Hoc Committee appointed Mr. Scott O.E. Omene of Nigeria to co-ordinate the work of Contact Group A and Mr. Guéorgui Dimitrov of Bulgaria to co-ordinate the work of Contact Group B.

9. The Ad Hoc Committee held a general exchange of views, after which its work was carried out principally in the framework of the Contact Groups as established above, supplemented by occasional, additional, brief, often informal meetings of the Ad Hoc Committee. On the basis of that work, the two Co-ordinators presented to the Ad Hoc Committee, at its 6th meeting on 12 August 1991, their respective reports (CD/RW/WP.92 and 93), which are reproduced in Annexes I and II to this report, reflecting the current state of consideration of the issues before the Ad Hoc Committee. It is understood that the contents of the Annexes are not binding on any delegation.

IV. CONCLUSIONS AND RECOMMENDATIONS

10. The work conducted by the Ad Hoc Committee during its 1991 session was useful in contributing further to the clarification of different approaches which continue to exist with regard to both the important subjects under consideration. It is recommended that the Conference on Disarmament re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1992 session and that the Ad Hoc Committee draw upon the Annexes to this report as a basis for its future work.

*/ One delegation did not take part in the work on the prohibition of attacks against nuclear facilities.

ANNEX I

Report of Contact Group A

1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its first meeting on 25 February 1991, Contact Group A was re-established to continue consideration of the issues relevant to the prohibition of radiological weapons.

2. Contact Group A held 8 meetings from 4 March to 12 August 1991. In addition, the Co-ordinator held a number of informal consultations with delegations.

3. According to the guidelines set out during the first meeting of the Ad Hoc Committee, Contact Group A used as a basis for its substantive work the Co-ordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1990 (CD/1027, Annex I, Attachment). The Contact Group reviewed the draft articles for a convention on the prohibition of radiological weapons contained therein. New alternatives were added to the texts on "Scope and Definitions" and new texts were elaborated on Review Conferences and Amendments under "Other Main Elements". The texts on "Verification and Compliance" and the "Annex" were also amended.

4. The amended Co-ordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.

5. The Co-ordinator's record is not binding upon any delegation and does not preclude any delegation from introducing proposals to the text as a whole or the elements thereof at a later stage. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

Attachment

DRAFT ARTICLES FOR A CONVENTION ON THE
PROHIBITION OF RADIOLOGICAL WEAPONS

PREAMBLE

The States Parties to this Convention, hereinafter referred to as the
"Parties to the Convention",

desiring to contribute to the realization of the purposes and
principles of the Charter of the United Nations,

determined to act with a view to achieving progress towards general and
complete disarmament under strict and effective international control,
including the prohibition and elimination of all types of weapons of
mass destruction as well as the development of new types of such
weapons as radiological weapons,

....

bearing in mind that the prohibition of radiological weapons is a step
in the process towards general and complete disarmament,

further bearing in mind longlasting effects of radioactive
contamination on living creatures as well as on the environment,

Have agreed as follows:

I. SCOPE

Paragraph 1

First alternative

Each Party to the Convention undertakes to prohibit radiological
weapons and hence never under any circumstances

(a) to disseminate deliberately any radioactive material,
including radioactive waste, for the purpose of causing injury, death,
damage or destruction by means of the radiation produced directly or
indirectly by the decay of such material,

(b) to develop, produce, stockpile, otherwise acquire, possess
or transfer any device specifically designed for the dissemination of
radioactive material prohibited under (a) of this paragraph.

Second alternative

[Each Party to the Convention undertakes not to develop, produce,
stockpile, otherwise acquire, possess, transfer or use under any
circumstances Radiological Weapons as defined in Section II.] ^{1/}

^{1/} Views were expressed that the second alternative of paragraph one of
"Scope", combined with the second alternative of "Definitions" needed further
study by all delegations to see whether this or modified language would
provide a definition of a radiological weapon which would allow for the
deletion of the first alternative and of paragraphs one and two of "Other Main
Elements".

Paragraph 2

Each Party to the Convention undertakes to take any measures it
considers necessary in accordance with its constitutional procedures and its
international obligations anywhere under its jurisdiction and control to

(a) prohibit and prevent any activity which would constitute a
violation of the obligations undertaken by the Parties to the
Convention,

(b) prohibit the diversion and prevent the loss of radioactive
material which could be used for purposes prohibited by this Convention.

Paragraph 3

Each Party to the Convention undertakes not to assist, encourage or
induce anyone to engage in activities prohibited by the provisions of this
Convention.

[II. DEFINITIONS]

First alternative

[For the purposes of this Convention the term "radiological weapon"
means:

(i) any device specifically designed for the dissemination of
radioactive material to cause [as its primary effect] injury, death,
damage or destruction by means of the decay of such material,

(ii) any radioactive material specifically designed and prepared for
employment, by its dissemination, to cause injury, death, damage or
destruction by the decay of such material,

(iii) any other radioactive material if used for employment by its
dissemination to cause injury, death, damage or destruction by the
decay of such material.]

Second alternative

[For the purpose of the Convention, the term "radiological weapon"
means any device containing radioactive material or waste as its principal
harmful element and specifically designed or used to cause injury, death,
environmental damage, or destruction through the direct or indirect effects of
ionizing radiation, without involving the critical assembly of any fissile
material.] ^{1/}

^{1/} Views were expressed that the second alternative of paragraph one of
"Scope", combined with the second alternative of "Definitions" needed further
study by all delegations to see whether this or modified language would
provide a definition of a radiological weapon which would allow for the
deletion of the first alternative and of paragraphs one and two of "Other Main
Elements".

III. PEACEFUL USES

Paragraph 1

Nothing in this Convention should be interpreted as affecting in any way

(a) the full exercise of the inalienable rights of all Parties to the Convention, without discrimination, to develop, acquire and use nuclear technology, equipment and materials for the peaceful use of nuclear energy and all peaceful applications of their nuclear programmes for economic and social development in accordance with their national priorities, needs and interests, bearing in mind the need to prevent the proliferation of nuclear weapons in all its forms. International co-operation in the peaceful uses of nuclear energy should be conducted under agreed and appropriate international safeguards applied on a non-discriminatory basis,

(b) the undertakings of Parties to the Convention to contribute to the fullest possible extent to international co-operation and assistance to ensure the development and effective implementation of adequate measures of protection for all States against the harmful effects of radiation.

Paragraph 2

Nothing in this Convention shall be interpreted as requiring or permitting a Party to the Convention to take measures which could affect the programmes of other States for peaceful uses of nuclear energy or technology for their economic or social development.

IV. OTHER MAIN ELEMENTS

Paragraph 1

The provisions of this Convention shall not apply to nuclear explosive devices or to radioactive material produced by them 1/.

Paragraph 2

Nothing in this Convention shall be interpreted as in any way legitimizing the development and the use of nuclear weapons or detracting from the obligations of States to refrain from the use or threat of use of such weapons 1/, 2/.

Paragraph 3

Parties to the Convention undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons and the achievement of nuclear disarmament. 2/, 3/.

1/ Objections were raised against the need for this paragraph.

2/ A view was expressed that this subject might be better dealt with in the preambular part.

3/ Some delegations were of the view that such an undertaking was outside the purview of this Convention.

Paragraph 4

Nothing in this Convention shall be interpreted as in any way limiting or detracting from rules of international law, including

(a) the Charter of the United Nations,

(b) law applicable to armed conflicts,

(c) obligations assumed by Parties to the Convention under other international agreements.

Paragraph 5

Ten years after entry into force of the Convention, or earlier if requested by a simple majority of States Parties, a Conference of States Parties to the Convention shall be held at Geneva, Switzerland. The Conference shall review the operation of the Convention with a view to assuring that the purposes of the preamble and the provisions of the Convention were being realized. Such review shall take into account any relevant technological developments.

At intervals of not less than five years thereafter, a simple majority of the States Parties to the Convention may obtain by submitting a proposal to this effect to the Depositary, the convening of a Conference with the same objectives.

If no Conference has been convened pursuant to paragraph 2 of this Article within ten years following the conclusion of a previous Conference, the Depositary shall solicit the views of all States Parties to this Convention, concerning the convening of such a Conference. If one third of the States Parties respond affirmatively, the Depositary shall take immediate steps to convene the Conference.

Paragraph 6

Each State Party to the Convention undertakes as it considers appropriate to provide or support technical and humanitarian assistance in accordance with the provisions of the Charter of the United Nations, to any State Party which so requests, harmed as a result of a violation of the Convention by another State Party or as a result of the use of radiological weapons by a State not party to the Convention.

For purposes of assistance, the services of appropriate international organisations may also be utilized. 1/

1/ A view was held that, depending upon a decision as to whether the Convention should establish a small secretariat, the services of such a secretariat may also be utilized.

Paragraph 7

Any State Party to this Convention may propose amendments to the Convention. The text of any proposed amendment shall be submitted to the Depositary, who shall promptly circulate it to all States Parties.

An amendment shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Paragraph 8

The Secretary-General of the United Nations shall be the Depositary of this Convention.

V. VERIFICATION AND COMPLIANCE

Paragraph 1

Parties to the Convention shall exchange to the fullest possible extent, bilaterally or multilaterally, information necessary to provide assurance of fulfilment of their obligations under the Convention.

Paragraph 2

Parties to the Convention undertake to consult one another and to co-operate in solving any problems which may be raised in relation to the objectives of, or in the application of, the provisions of the Convention.

Consultation and co-operation pursuant to this paragraph may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Committee of Experts. For these purposes the Depositary shall, within one month of the receipt of a request from any State Party to the Convention, convene a Committee of Experts.

Paragraph 3

Each Party to the Convention which has reasons to believe that any other Party to the Convention is acting in breach of the obligations deriving from the provisions of the Convention may lodge a complaint with the Depositary. Such a complaint shall include all relevant information as well as all possible evidence supporting its validity. In order to evaluate such information, the Depositary may convene the Committee of Experts.

The Depositary, assisted by the Committee of Experts, shall [to the extent possible] conduct an investigation of the alleged facts, whenever the evaluation of the information provided to him indicates that such an investigation is warranted.

The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all Parties to the Convention and to the Security Council and shall indicate his conclusions and suggestions for possible action. In case of urgency, the Depositary may request the Committee to submit its report within 10 days.

Paragraph 4

Each Party to the Convention undertakes to co-operate to the fullest possible extent with the Committee of Experts, in accordance with the provisions of the Charter of the United Nations.

Paragraph 5

The functions and rules of procedure of the Committee of Experts mentioned in the above Paragraphs 2, 3, and 4 are set out in the Annex, which constitutes an integral part of the Convention.

Paragraph 6

The provisions of Paragraph 3 of this section shall not be interpreted as affecting the rights and duties of Parties under the Charter of the United Nations, including bringing to the attention of the Security Council concerns about compliance with this Convention.

ANNEX

1. The Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to the Convention by the Party requesting the convening of the Committee. It may be requested by the Depositary to carry out investigations in case of complaints lodged by a Party to the Convention.
2. The work of the Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in Paragraph 1 of the Annex. In the process of such investigations, including fact-finding, every effort should be made to apply appropriate methods and procedures which are non-discriminatory and which do not unduly interfere with the internal affairs of other States or jeopardize their economic and social development. [The Committee of Experts shall be assisted by the Secretariat located in Geneva, whose functions will include technical and administrative services.]
3. The Depositary shall:
 - compile and maintain a list of qualified experts whose services may be available for the work of the Committee of Experts in accordance with Paragraphs 1 and 2 of the Annex;
 - base the list of qualified experts on proposals which had been made to him by Parties to the Convention;
 - appoint members of the Committee of Experts from such a list with due regard to ensuring appropriate geographical balance and to the character of the question involved.
4. The Depositary or his representative shall serve as the Chairman of the Committee.
5. Each expert may be assisted at meetings by one or more advisers.
6. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work. Each Party undertakes not to use deliberate concealment measures which impede verification of compliance with the Convention.

ANNEX II

Report of Contact Group B

1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its 1st meeting on 25 February 1991, Contact Group B was re-established to continue consideration of the issues relevant to the prohibition of attacks against nuclear facilities.
2. Contact Group B held 8 meetings from 18 March to 12 August 1991. In addition, the Co-ordinator held a number of informal consultations with delegations.
3. According to guidelines set out during the 1st meeting of the Ad Hoc Committee, Contact Group B used as a basis for its substantive work the Co-ordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1990 (CD/1027, Annex II, Attachment). The Contact Group reviewed the possible elements relevant to the prohibition of attacks against nuclear facilities contained therein. A number of modifications were made to the Co-ordinator's record, focused mainly on the questions of Register and Verification and Compliance.
4. The amended Co-ordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.
5. The Co-ordinator's record is not binding upon any delegation and its main purpose is to facilitate future consideration. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

Attachment

POSSIBLE ELEMENTS RELEVANT TO THE PROHIBITION OF ATTACKS
AGAINST NUCLEAR FACILITIES 1/ 2/

I. SCOPE

Paragraph 1

First alternative

Each State Party undertakes never under any circumstances to attack nuclear facilities covered by this Treaty.

Second alternative

Each State Party undertakes never under any circumstances to attack or to threaten to attack any nuclear facility.

Third alternative 3/

Each State Party undertakes never under any circumstances to release and disseminate radioactive substances by attacking nuclear facilities covered by this Treaty.

Paragraph 2

Each State Party undertakes not in any way to assist, encourage or induce any person, State, group of States, or international organization to act in contravention of this Treaty.

1/ This record does not prejudice the eventual positions of delegations relating to the question of "linkage", or the positions of delegations on the question of the need of having additional legal protection for nuclear facilities. As to the latter, a view was expressed that additional discussion on existing international agreements pertaining to the question is needed.

2/ One delegation stated that, apart from the fact that the elements listed were controversial, the third alternative under Scope, paragraph 1 of the Definitions and the sections on Criteria and Special Marking were not essential to the elaboration of a convention. The section on Special Marking could have been recast within the section on Register. That was not, however, the case of the other elements mentioned, particularly the section on Criteria, which, in its opinion, seemed incompatible with the rule of jus cogens in article 2, paragraph 4, of the Charter of the United Nations.

3/ Some delegations stated that the third alternative of Scope based on the criterion of mass destruction read in conjunction with the first alternative of paragraph 2 of Definitions, paragraph 1 of Criteria, paragraph 1 to 3, the first alternative of paragraph 4, paragraphs 5 and 6 of Register as well as Special Marking in Paragraph 1 under Other Main Elements constitute one complete and consistent set of elements to be included in a draft Treaty.

II. DEFINITIONS

Paragraph 1

For the purposes of this Treaty, the term "attack" means any act by a State which is designed to cause or causes, directly or indirectly:

- (i) any damage to, or the destruction of, a nuclear facility; or
- (ii) any interference, interruption, impediment, stoppage or breakdown in the operation of a nuclear facility; or
- (iii) any injury to, or the death of, any of the personnel of a nuclear facility.

Paragraph 2

First alternative

For the purpose of this Treaty, the term "nuclear facilities" means: 1/

- (i) Nuclear reactors;
- (ii) Intermediate spent fuel storages;
- (iii) Reprocessing plants;
- (iv) Waste deposits, including temporary waste storages;
- (v) Installations for production or use of important and intensive sources of gamma radiation; 2/

which are included in a Register maintained by the Depositary.

Second alternative

A nuclear facility means a nuclear reactor or any other facility for the production, handling, treatment, processing or storage of nuclear fuel or other nuclear material.

1/ A suggestion was made to add two further categories after "(iii) Reprocessing plants;"

- (iv) Nuclear fuel processing plants;
- (v) Uranium enrichment plants.

2/ A view was expressed that this provision should be further refined.

III. CRITERIA

Paragraph 1

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications: 1/

- (i) They shall be stationary on land; 2/ 3/
- (ii) Nuclear reactors; designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned;
- (iii) Intermediate spent fuel storages; designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (iv) Reprocessing plants; designed for containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (v) Waste deposits: containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (vi) Installations for production or use of intensive sources of gamma radiation: designed to contain radioactive material whose gamma-radiation-dissipated power is equal to or greater than 6×10^{16} [10^{17}] Bq x Mev.

Paragraph 2

Additional specification suggested to the above specifications:

Nuclear facilities mentioned in paragraph 2 of Definitions which are under the safeguards of the International Atomic Energy Agency are covered by the provision of this Treaty.

1/ Views were expressed that nuclear facilities mentioned in paragraph 2 of Definitions shall be used for peaceful purposes and subject to IAEA safeguards.

2/ Views were expressed that nuclear facilities stationed in territorial waters and the exclusive economic zones should also be considered.

3/ Views were expressed that such nuclear facilities should not belong to weapons systems.

IV. REGISTER

Paragraph 1

The Depositary shall establish, on the basis of initial communications by States Parties, as set out in paragraph 2 below, a comprehensive Register of nuclear facilities covered by this Treaty, and shall maintain this Register on the basis of subsequent communications on changes, as set out in paragraph 5 below.

Certified copies of the Register shall be transmitted to each State Party ... days after entry into force of the Treaty.

Certified copies of the Register in its entirety including all modifications shall be transmitted to each State Party at intervals of ... and be available to States Parties at any time in the offices of the Depositary.

Paragraph 2

States Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

- (a) Identification of the type of nuclear facility;
- (b) Detailed specifications in accordance with Paragraph 1 of Criteria of this Treaty;
- (c) Details on the exact geographical location of the nuclear facility.

Paragraph 3 1/

Upon receipt of a request for an inclusion in the Register, the Depositary shall without delay initiate procedures to confirm that the information contained in the request is correct:

- (a) Through, to the extent possible, documentation from the IAEA; and/or
- (b) Through other means, including a mission to the facility, when necessary.

For the purpose of carrying out the procedures in paragraph 3 (a) above the Depositary may, as it deems necessary, enter into agreement with the IAEA.

For the purpose of carrying out the procedures in paragraph 3 (b) above the Depositary shall, with the co-operation of States Party to the Treaty, compile and maintain a list of qualified experts, whose services could be made available to undertake such missions.

1/ A view was expressed that this provision calls for further discussion.

Paragraph 4

First alternative

The Depositary shall include the facility in the Register as well as the information required by paragraph 2 of this section, as soon as the information given in the request has been confirmed according to paragraph 3 above, and shall immediately notify States Parties to the Treaty of the aforesaid inclusion.

Second alternative

The Depositary shall include the facility in the Register as well as the information required by paragraph 2 of this section and shall immediately notify States Party to the Treaty of aforesaid inclusion.

Paragraph 5

A State Party shall inform the Depositary, within ...days/months, of any change in the information it had provided for inclusion in the Register. Upon the receipt of such information, the Depositary shall act, mutatis mutandi, in accordance with the procedures outlined in paragraphs 3 and 4 of this section.

Paragraph 6 1/

The costs for implementing these procedures shall be borne by the requesting State.

V. VERIFICATION AND COMPLIANCE

Paragraph 1

States Parties to this Treaty shall make every possible effort to consult one another and to co-operate in solving any problems which may be raised in relation to the objectives of, or in the application of the provisions of, the Treaty.

Paragraph 2

A State Party may lodge a complaint with the Depositary in case it believes that any other State Party is in breach of obligations deriving from this Treaty. Such complaint shall include all relevant information and all possible evidence supporting the validity of the complaint.

^{1/} There was general agreement that the modalities as well as the placement of this provision should be further discussed.

Paragraph 3

First alternative

Within ... days of the receipt of a complaint from any State Party the Depositary shall initiate an investigation to ascertain facts relevant to the complaint. Such an investigation may include a fact-finding mission to or at the site of the nuclear facility concerned and to any other site as may be appropriate. The fact-finding mission shall submit its findings to the Depositary within ... days.

Second alternative

Within ... days of the receipt of a complaint from any State Party the Depositary shall initiate an investigation to ascertain facts relevant to the complaint. Such an investigation shall include a fact-finding mission to or at the site of the nuclear facility concerned and to any other site as may be appropriate. The fact-finding mission shall submit its findings to the Depositary within ... days.

Paragraph 4

For purposes of carrying out a fact-finding mission the Depositary shall maintain a list of qualified experts, selected on as wide a geographical basis as possible, whose services may be available to undertake such missions.

Paragraph 5

States Parties undertake to co-operate in carrying out the investigation which the Depositary may initiate on a complaint received from any State Party. The Depositary shall inform the States Parties of the results of the investigation. A copy of the report on the investigation shall be transmitted also to the Security Council and the General Assembly of the United Nations.

Paragraph 6

First alternative

The Depositary shall, upon request of a State Party, convene the Conference of States Parties to consider the report on the investigation as well as possible courses of action.

Second alternative

The Depositary shall immediately convene the Conference of States Parties to consider the report on the investigation and to adopt such measures as may be appropriate.

Paragraph 7

First alternative

The continuing application of IAEA safeguards at a nuclear facility will form an essential part of the arrangements to verify that the facility is a peaceful nuclear facility within the meaning of the Treaty. 1/ 2/

Second alternative

The determination that a facility is and remains a peaceful nuclear facility within the meaning of the Treaty shall be made by the application of IAEA safeguards. 1/ 2/

Third alternative

The application of IAEA safeguards to a nuclear facility shall be of no relevance to the verification of compliance with obligations assumed by States Parties to this Treaty.

VI. OTHER MAIN ELEMENTS

Paragraph 1

A State Party may mark its nuclear facilities included in the Register with Special Marking.

Paragraph 2 3/ 4/ 5/

States Parties undertake to provide or support assistance to any State Party harmed as a result of the violation of the Treaty.

Paragraph 3

Provisions of this Treaty are without prejudice to the obligations of State Parties undertaken in other international instruments relevant to the subject of this Treaty.

Paragraph 4

The Secretary-General shall be designated as Depositary of this Treaty.

1/ It was stated that the application of IAEA safeguards was irrelevant to the objectives of this Treaty and that if anyway addressed, the issue belonged under the provisions for inclusion in the Register.

2/ The view was expressed that the application of IAEA safeguards could not verify that a nuclear facility was a peaceful one but rather that nuclear material remained in peaceful use.

3/ A view was expressed that the obligation of States Parties to provide assistance was limited to the radiological damage caused by an attack.

4/ Views were expressed that the assistance to be provided or supported to any harmed State Party should not be limited to cases of violations by States Parties, but should also cover harm inflicted by attacks from States not party to the Convention.

5/ Views were expressed that there should be no mandatory obligation of States Parties to provide assistance.

REPORT OF THE AD HOC COMMITTEE ON RADIOLOGICAL WEAPONS

I. INTRODUCTION

1. In accordance with the decision taken by the Conference on Disarmament at its 578th plenary meeting held on 24 January 1991, as contained in document CD/1051, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1991 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of its 1991 session.

II. ORGANIZATION OF WORK AND DOCUMENTATION

2. At that same plenary meeting, the Conference on Disarmament appointed Mr. Angus W.J. Robertson of Canada as Chairman of the Ad Hoc Committee. Mr. Michael Cassandra of the United Nations Department for Disarmament Affairs served as Secretary of the Ad Hoc Committee.

3. The Ad Hoc Committee held six meetings from 25 February to 12 August 1991. In addition, the Chairman held a number of informal consultations with delegations.

4. At their request, the representatives of the following 25 States not members of the Conference on Disarmament were invited to participate in the work of the Ad Hoc Committee: Angola, Austria, Chile, Costa Rica, Denmark, Finland, Greece, Iraq, Israel, Jordan, Kuwait, Malaysia, New Zealand, Norway, Oman, Portugal, Qatar, Senegal, Spain, Switzerland, Syrian Arab Republic, Turkey, United Arab Emirates, Uruguay and Zimbabwe.

5. In addition to various resolutions adopted by the United Nations General Assembly on the subject at its previous sessions, the Ad Hoc Committee had before it resolutions 45/58F and J adopted by the General Assembly at its forty-fifth session entrusting specific responsibilities to the Conference on Disarmament on this subject.

6. The following working papers were presented to the Ad Hoc Committee:

CD/RW/WP.91 dated 4 March 1991 entitled "Programme of Work for the 1991 session"

CD/RW/WP.92 dated 13 August 1991 entitled "Report of Contact Group A"

CD/RW/WP.93 dated 13 August 1991 entitled "Report of Contact Group B"

III. WORK DURING THE 1991 SESSION

7. At its 1st meeting on 25 February 1991, at the suggestion of the Chairman, the Ad Hoc Committee agreed that it continue the same method of work adopted since 1987, that is, that Contact Group A continue to consider the prohibition of radiological weapons in the "traditional" sense and that Contact Group B continue to consider issues relevant to the prohibition of attacks against nuclear facilities. */ He also recommended that the work of the two groups should be pursued as recommended in the 1990 report of the Ad Hoc Committee (CD/1027), that is, to draw upon the two annexes contained in that report as a basis for its work.

8. At the same meeting, the Ad Hoc Committee appointed Mr. Scott O.E. Omene of Nigeria to co-ordinate the work of Contact Group A and Mr. Guéorgui Dimitrov of Bulgaria to co-ordinate the work of Contact Group B.

9. The Ad Hoc Committee held a general exchange of views, after which its work was carried out principally in the framework of the Contact Groups as established above, supplemented by occasional, additional, brief, often informal meetings of the Ad Hoc Committee. On the basis of that work, the two Co-ordinators presented to the Ad Hoc Committee, at its 6th meeting on 12 August 1991, their respective reports (CD/RW/WP.92 and 93), which are reproduced in Annexes I and II to this report, reflecting the current state of consideration of the issues before the Ad Hoc Committee. It is understood that the contents of the Annexes are not binding on any delegation.

IV. CONCLUSIONS AND RECOMMENDATIONS

10. The work conducted by the Ad Hoc Committee during its 1991 session was useful in contributing further to the clarification of different approaches which continue to exist with regard to both the important subjects under consideration. It is recommended that the Conference on Disarmament re-establish the Ad Hoc Committee on Radiological Weapons at the beginning of its 1992 session and that the Ad Hoc Committee draw upon the Annexes to this report as a basis for its future work.

*/ One delegation did not take part in the work on the prohibition of attacks against nuclear facilities.

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1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its first meeting on 25 February 1991, Contact Group A was re-established to continue consideration of the issues relevant to the prohibition of radiological weapons.
2. Contact Group A held 8 meetings from 4 March to 12 August 1991. In addition, the Co-ordinator held a number of informal consultations with delegations.
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4. The amended Co-ordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.
5. The Co-ordinator's record is not binding upon any delegation and does not preclude any delegation from introducing proposals to the text as a whole or the elements thereof at a later stage. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

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"Parties to the Convention",

desiring to contribute to the realization of the purposes and
principles of the Charter of the United Nations,

determined to act with a view to achieving progress towards general and
complete disarmament under strict and effective international control,
including the prohibition and elimination of all types of weapons of
mass destruction as well as the development of new types of such
weapons as radiological weapons,

....

bearing in mind that the prohibition of radiological weapons is a step
in the process towards general and complete disarmament,

further bearing in mind longlasting effects of radioactive
contamination on living creatures as well as on the environment,

Have agreed as follows:

I. SCOPE

Paragraph 1

First alternative

Each Party to the Convention undertakes to prohibit radiological
weapons and hence never under any circumstances

(a) to disseminate deliberately any radioactive material,
including radioactive waste, for the purpose of causing injury, death,
damage or destruction by means of the radiation produced directly or
indirectly by the decay of such material,

(b) to develop, produce, stockpile, otherwise acquire, possess
or transfer any device specifically designed for the dissemination of
radioactive material prohibited under (a) of this paragraph.

Second alternative

[Each Party to the Convention undertakes not to develop, produce,
stockpile, otherwise acquire, possess, transfer or use under any
circumstances Radiological Weapons as defined in Section II.] ^{1/}

^{1/} Views were expressed that the second alternative of paragraph one of
"Scope", combined with the second alternative of "Definitions" needed further
study by all delegations to see whether this or modified language would
provide a definition of a radiological weapon which would allow for the
deletion of the first alternative and of paragraphs one and two of "Other Main
Elements".

Paragraph 2

Each Party to the Convention undertakes to take any measures it
considers necessary in accordance with its constitutional procedures and its
international obligations anywhere under its jurisdiction and control to

(a) prohibit and prevent any activity which would constitute a
violation of the obligations undertaken by the Parties to the
Convention,

(b) prohibit the diversion and prevent the loss of radioactive
material which could be used for purposes prohibited by this Convention.

Paragraph 3

Each Party to the Convention undertakes not to assist, encourage or
induce anyone to engage in activities prohibited by the provisions of this
Convention.

[II. DEFINITIONS]

First alternative

[For the purposes of this Convention the term "radiological weapon"
means:

(i) any device specifically designed for the dissemination of
radioactive material to cause [as its primary effect] injury, death,
damage or destruction by means of the decay of such material,

(ii) any radioactive material specifically designed and prepared for
employment, by its dissemination, to cause injury, death, damage or
destruction by the decay of such material,

(iii) any other radioactive material if used for employment by its
dissemination to cause injury, death, damage or destruction by the
decay of such material.]

Second alternative

[For the purpose of the Convention, the term "radiological weapon"
means any device containing radioactive material or waste as its principal
harmful element and specifically designed or used to cause injury, death,
environmental damage, or destruction through the direct or indirect effects of
ionizing radiation, without involving the critical assembly of any fissile
material.] ^{1/}

^{1/} Views were expressed that the second alternative of paragraph one of
"Scope", combined with the second alternative of "Definitions" needed further
study by all delegations to see whether this or modified language would
provide a definition of a radiological weapon which would allow for the
deletion of the first alternative and of paragraphs one and two of "Other Main
Elements".

III. PEACEFUL USES

Paragraph 1

Nothing in this Convention should be interpreted as affecting in any way

(a) the full exercise of the inalienable rights of all Parties to the Convention, without discrimination, to develop, acquire and use nuclear technology, equipment and materials for the peaceful use of nuclear energy and all peaceful applications of their nuclear programmes for economic and social development in accordance with their national priorities, needs and interests, bearing in mind the need to prevent the proliferation of nuclear weapons in all its forms. International co-operation in the peaceful uses of nuclear energy should be conducted under agreed and appropriate international safeguards applied on a non-discriminatory basis,

(b) the undertakings of Parties to the Convention to contribute to the fullest possible extent to international co-operation and assistance to ensure the development and effective implementation of adequate measures of protection for all States against the harmful effects of radiation.

Paragraph 2

Nothing in this Convention shall be interpreted as requiring or permitting a Party to the Convention to take measures which could affect the programmes of other States for peaceful uses of nuclear energy or technology for their economic or social development.

IV. OTHER MAIN ELEMENTS

Paragraph 1

The provisions of this Convention shall not apply to nuclear explosive devices or to radioactive material produced by them 1/.

Paragraph 2

Nothing in this Convention shall be interpreted as in any way legitimizing the development and the use of nuclear weapons or detracting from the obligations of States to refrain from the use or threat of use of such weapons 1/, 2/.

Paragraph 3

Parties to the Convention undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons and the achievement of nuclear disarmament. 2/, 3/.

1/ Objections were raised against the need for this paragraph.

2/ A view was expressed that this subject might be better dealt with in the preambular part.

3/ Some delegations were of the view that such an undertaking was outside the purview of this Convention.

Paragraph 4

Nothing in this Convention shall be interpreted as in any way limiting or detracting from rules of international law, including

(a) the Charter of the United Nations,

(b) law applicable to armed conflicts,

(c) obligations assumed by Parties to the Convention under other international agreements.

Paragraph 5

Ten years after entry into force of the Convention, or earlier if requested by a simple majority of States Parties, a Conference of States Parties to the Convention shall be held at Geneva, Switzerland. The Conference shall review the operation of the Convention with a view to assuring that the purposes of the preamble and the provisions of the Convention were being realized. Such review shall take into account any relevant technological developments.

At intervals of not less than five years thereafter, a simple majority of the States Parties to the Convention may obtain by submitting a proposal to this effect to the Depositary, the convening of a Conference with the same objectives.

If no Conference has been convened pursuant to paragraph 2 of this Article within ten years following the conclusion of a previous Conference, the Depositary shall solicit the views of all States Parties to this Convention, concerning the convening of such a Conference. If one third of the States Parties respond affirmatively, the Depositary shall take immediate steps to convene the Conference.

Paragraph 6

Each State Party to the Convention undertakes as it considers appropriate to provide or support technical and humanitarian assistance in accordance with the provisions of the Charter of the United Nations, to any State Party which so requests, harmed as a result of a violation of the Convention by another State Party or as a result of the use of radiological weapons by a State not party to the Convention.

For purposes of assistance, the services of appropriate international organisations may also be utilized. 1/

1/ A view was held that, depending upon a decision as to whether the Convention should establish a small secretariat, the services of such a secretariat may also be utilized.

Paragraph 7

Any State Party to this Convention may propose amendments to the Convention. The text of any proposed amendment shall be submitted to the Depositary, who shall promptly circulate it to all States Parties.

An amendment shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

Paragraph 8

The Secretary-General of the United Nations shall be the Depositary of this Convention.

V. VERIFICATION AND COMPLIANCE

Paragraph 1

Parties to the Convention shall exchange to the fullest possible extent, bilaterally or multilaterally, information necessary to provide assurance of fulfilment of their obligations under the Convention.

Paragraph 2

Parties to the Convention undertake to consult one another and to co-operate in solving any problems which may be raised in relation to the objectives of, or in the application of, the provisions of the Convention.

Consultation and co-operation pursuant to this paragraph may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Committee of Experts. For these purposes the Depositary shall, within one month of the receipt of a request from any State Party to the Convention, convene a Committee of Experts.

Paragraph 3

Each Party to the Convention which has reasons to believe that any other Party to the Convention is acting in breach of the obligations deriving from the provisions of the Convention may lodge a complaint with the Depositary. Such a complaint shall include all relevant information as well as all possible evidence supporting its validity. In order to evaluate such information, the Depositary may convene the Committee of Experts.

The Depositary, assisted by the Committee of Experts, shall [to the extent possible] conduct an investigation of the alleged facts, whenever the evaluation of the information provided to him indicates that such an investigation is warranted.

The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all Parties to the Convention and to the Security Council and shall indicate his conclusions and suggestions for possible action. In case of urgency, the Depositary may request the Committee to submit its report within 10 days.

Paragraph 4

Each Party to the Convention undertakes to co-operate to the fullest possible extent with the Committee of Experts, in accordance with the provisions of the Charter of the United Nations.

Paragraph 5

The functions and rules of procedure of the Committee of Experts mentioned in the above Paragraphs 2, 3, and 4 are set out in the Annex, which constitutes an integral part of the Convention.

Paragraph 6

The provisions of Paragraph 3 of this section shall not be interpreted as affecting the rights and duties of Parties under the Charter of the United Nations, including bringing to the attention of the Security Council concerns about compliance with this Convention.

ANNEX

1. The Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to the Convention by the Party requesting the convening of the Committee. It may be requested by the Depositary to carry out investigations in case of complaints lodged by a Party to the Convention.
2. The work of the Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in Paragraph 1 of the Annex. In the process of such investigations, including fact-finding, every effort should be made to apply appropriate methods and procedures which are non-discriminatory and which do not unduly interfere with the internal affairs of other States or jeopardize their economic and social development. [The Committee of Experts shall be assisted by the Secretariat located in Geneva, whose functions will include technical and administrative services.]
3. The Depositary shall:
 - compile and maintain a list of qualified experts whose services may be available for the work of the Committee of Experts in accordance with Paragraphs 1 and 2 of the Annex;
 - base the list of qualified experts on proposals which had been made to him by Parties to the Convention;
 - appoint members of the Committee of Experts from such a list with due regard to ensuring appropriate geographical balance and to the character of the question involved.
4. The Depositary or his representative shall serve as the Chairman of the Committee.
5. Each expert may be assisted at meetings by one or more advisers.
6. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work. Each Party undertakes not to use deliberate concealment measures which impede verification of compliance with the Convention.

ANNEX II

Report of Contact Group B

1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its 1st meeting on 25 February 1991, Contact Group B was re-established to continue consideration of the issues relevant to the prohibition of attacks against nuclear facilities.
2. Contact Group B held 8 meetings from 18 March to 12 August 1991. In addition, the Co-ordinator held a number of informal consultations with delegations.
3. According to guidelines set out during the 1st meeting of the Ad Hoc Committee, Contact Group B used as a basis for its substantive work the Co-ordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1990 (CD/1027, Annex II, Attachment). The Contact Group reviewed the possible elements relevant to the prohibition of attacks against nuclear facilities contained therein. A number of modifications were made to the Co-ordinator's record, focused mainly on the questions of Register and Verification and Compliance.
4. The amended Co-ordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.
5. The Co-ordinator's record is not binding upon any delegation and its main purpose is to facilitate future consideration. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

Attachment

POSSIBLE ELEMENTS RELEVANT TO THE PROHIBITION OF ATTACKS
AGAINST NUCLEAR FACILITIES 1/ 2/

I. SCOPE

Paragraph 1

First alternative

Each State Party undertakes never under any circumstances to attack nuclear facilities covered by this Treaty.

Second alternative

Each State Party undertakes never under any circumstances to attack or to threaten to attack any nuclear facility.

Third alternative 3/

Each State Party undertakes never under any circumstances to release and disseminate radioactive substances by attacking nuclear facilities covered by this Treaty.

Paragraph 2

Each State Party undertakes not in any way to assist, encourage or induce any person, State, group of States, or international organization to act in contravention of this Treaty.

1/ This record does not prejudice the eventual positions of delegations relating to the question of "linkage", or the positions of delegations on the question of the need of having additional legal protection for nuclear facilities. As to the latter, a view was expressed that additional discussion on existing international agreements pertaining to the question is needed.

2/ One delegation stated that, apart from the fact that the elements listed were controversial, the third alternative under Scope, paragraph 1 of the Definitions and the sections on Criteria and Special Marking were not essential to the elaboration of a convention. The section on Special Marking could have been recast within the section on Register. That was not, however, the case of the other elements mentioned, particularly the section on Criteria, which, in its opinion, seemed incompatible with the rule of jus cogens in article 2, paragraph 4, of the Charter of the United Nations.

3/ Some delegations stated that the third alternative of Scope based on the criterion of mass destruction read in conjunction with the first alternative of paragraph 2 of Definitions, paragraph 1 of Criteria, paragraph 1 to 3, the first alternative of paragraph 4, paragraphs 5 and 6 of Register as well as Special Marking in Paragraph 1 under Other Main Elements constitute one complete and consistent set of elements to be included in a draft Treaty.

II. DEFINITIONS

Paragraph 1

For the purposes of this Treaty, the term "attack" means any act by a State which is designed to cause or causes, directly or indirectly:

- (i) any damage to, or the destruction of, a nuclear facility; or
- (ii) any interference, interruption, impediment, stoppage or breakdown in the operation of a nuclear facility; or
- (iii) any injury to, or the death of, any of the personnel of a nuclear facility.

Paragraph 2

First alternative

For the purpose of this Treaty, the term "nuclear facilities" means: 1/

- (i) Nuclear reactors;
- (ii) Intermediate spent fuel storages;
- (iii) Reprocessing plants;
- (iv) Waste deposits, including temporary waste storages;
- (v) Installations for production or use of important and intensive sources of gamma radiation; 2/

which are included in a Register maintained by the Depositary.

Second alternative

A nuclear facility means a nuclear reactor or any other facility for the production, handling, treatment, processing or storage of nuclear fuel or other nuclear material.

1/ A suggestion was made to add two further categories after "(iii) Reprocessing plants;"

- (iv) Nuclear fuel processing plants;
- (v) Uranium enrichment plants.

2/ A view was expressed that this provision should be further refined.

III. CRITERIA

Paragraph 1

The nuclear facilities mentioned in paragraph 2 of Definitions shall meet the following specifications: 1/

- (i) They shall be stationary on land; 2/ 3/
- (ii) Nuclear reactors; designed for a thermal power which could exceed 1 [10] Megawatt, shall have reached their first criticality and shall not have been decommissioned;
- (iii) Intermediate spent fuel storages; designed for storing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (iv) Reprocessing plants; designed for containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (v) Waste deposits: containing radioactive material exceeding 10^{17} [10^{18}] Bq;
- (vi) Installations for production or use of intensive sources of gamma radiation: designed to contain radioactive material whose gamma-radiation-dissipated power is equal to or greater than 6×10^{16} [10^{17}] Bq x Mev.

Paragraph 2

Additional specification suggested to the above specifications:

Nuclear facilities mentioned in paragraph 2 of Definitions which are under the safeguards of the International Atomic Energy Agency are covered by the provision of this Treaty.

1/ Views were expressed that nuclear facilities mentioned in paragraph 2 of Definitions shall be used for peaceful purposes and subject to IAEA safeguards.

2/ Views were expressed that nuclear facilities stationed in territorial waters and the exclusive economic zones should also be considered.

3/ Views were expressed that such nuclear facilities should not belong to weapons systems.

IV. REGISTER

Paragraph 1

The Depositary shall establish, on the basis of initial communications by States Parties, as set out in paragraph 2 below, a comprehensive Register of nuclear facilities covered by this Treaty, and shall maintain this Register on the basis of subsequent communications on changes, as set out in paragraph 5 below.

Certified copies of the Register shall be transmitted to each State Party ... days after entry into force of the Treaty.

Certified copies of the Register in its entirety including all modifications shall be transmitted to each State Party at intervals of ... and be available to States Parties at any time in the offices of the Depositary.

Paragraph 2

States Parties requesting that nuclear facilities under their jurisdiction be included in the Register shall for each such facility communicate to the Depositary the following written information:

- (a) Identification of the type of nuclear facility;
- (b) Detailed specifications in accordance with Paragraph 1 of Criteria of this Treaty;
- (c) Details on the exact geographical location of the nuclear facility.

Paragraph 3 1/

Upon receipt of a request for an inclusion in the Register, the Depositary shall without delay initiate procedures to confirm that the information contained in the request is correct:

- (a) Through, to the extent possible, documentation from the IAEA; and/or
- (b) Through other means, including a mission to the facility, when necessary.

For the purpose of carrying out the procedures in paragraph 3 (a) above the Depositary may, as it deems necessary, enter into agreement with the IAEA.

For the purpose of carrying out the procedures in paragraph 3 (b) above the Depositary shall, with the co-operation of States Party to the Treaty, compile and maintain a list of qualified experts, whose services could be made available to undertake such missions.

1/ A view was expressed that this provision calls for further discussion.

Paragraph 4

First alternative

The Depositary shall include the facility in the Register as well as the information required by paragraph 2 of this section, as soon as the information given in the request has been confirmed according to paragraph 3 above, and shall immediately notify States Parties to the Treaty of the aforesaid inclusion.

Second alternative

The Depositary shall include the facility in the Register as well as the information required by paragraph 2 of this section and shall immediately notify States Party to the Treaty of aforesaid inclusion.

Paragraph 5

A State Party shall inform the Depositary, within ...days/months, of any change in the information it had provided for inclusion in the Register. Upon the receipt of such information, the Depositary shall act, mutatis mutandi, in accordance with the procedures outlined in paragraphs 3 and 4 of this section.

Paragraph 6 1/

The costs for implementing these procedures shall be borne by the requesting State.

V. VERIFICATION AND COMPLIANCE

Paragraph 1

States Parties to this Treaty shall make every possible effort to consult one another and to co-operate in solving any problems which may be raised in relation to the objectives of, or in the application of the provisions of, the Treaty.

Paragraph 2

A State Party may lodge a complaint with the Depositary in case it believes that any other State Party is in breach of obligations deriving from this Treaty. Such complaint shall include all relevant information and all possible evidence supporting the validity of the complaint.

^{1/} There was general agreement that the modalities as well as the placement of this provision should be further discussed.

Paragraph 3

First alternative

Within ... days of the receipt of a complaint from any State Party the Depositary shall initiate an investigation to ascertain facts relevant to the complaint. Such an investigation may include a fact-finding mission to or at the site of the nuclear facility concerned and to any other site as may be appropriate. The fact-finding mission shall submit its findings to the Depositary within ... days.

Second alternative

Within ... days of the receipt of a complaint from any State Party the Depositary shall initiate an investigation to ascertain facts relevant to the complaint. Such an investigation shall include a fact-finding mission to or at the site of the nuclear facility concerned and to any other site as may be appropriate. The fact-finding mission shall submit its findings to the Depositary within ... days.

Paragraph 4

For purposes of carrying out a fact-finding mission the Depositary shall maintain a list of qualified experts, selected on as wide a geographical basis as possible, whose services may be available to undertake such missions.

Paragraph 5

States Parties undertake to co-operate in carrying out the investigation which the Depositary may initiate on a complaint received from any State Party. The Depositary shall inform the States Parties of the results of the investigation. A copy of the report on the investigation shall be transmitted also to the Security Council and the General Assembly of the United Nations.

Paragraph 6

First alternative

The Depositary shall, upon request of a State Party, convene the Conference of States Parties to consider the report on the investigation as well as possible courses of action.

Second alternative

The Depositary shall immediately convene the Conference of States Parties to consider the report on the investigation and to adopt such measures as may be appropriate.

Paragraph 7

First alternative

The continuing application of IAEA safeguards at a nuclear facility will form an essential part of the arrangements to verify that the facility is a peaceful nuclear facility within the meaning of the Treaty. 1/ 2/

Second alternative

The determination that a facility is and remains a peaceful nuclear facility within the meaning of the Treaty shall be made by the application of IAEA safeguards. 1/ 2/

Third alternative

The application of IAEA safeguards to a nuclear facility shall be of no relevance to the verification of compliance with obligations assumed by States Parties to this Treaty.

VI. OTHER MAIN ELEMENTS

Paragraph 1

A State Party may mark its nuclear facilities included in the Register with Special Marking.

Paragraph 2 3/ 4/ 5/

States Parties undertake to provide or support assistance to any State Party harmed as a result of the violation of the Treaty.

Paragraph 3

Provisions of this Treaty are without prejudice to the obligations of State Parties undertaken in other international instruments relevant to the subject of this Treaty.

Paragraph 4

The Secretary-General shall be designated as Depositary of this Treaty.

1/ It was stated that the application of IAEA safeguards was irrelevant to the objectives of this Treaty and that if anyway addressed, the issue belonged under the provisions for inclusion in the Register.

2/ The view was expressed that the application of IAEA safeguards could not verify that a nuclear facility was a peaceful one but rather that nuclear material remained in peaceful use.

3/ A view was expressed that the obligation of States Parties to provide assistance was limited to the radiological damage caused by an attack.

4/ Views were expressed that the assistance to be provided or supported to any harmed State Party should not be limited to cases of violations by States Parties, but should also cover harm inflicted by attacks from States not party to the Convention.

5/ Views were expressed that there should be no mandatory obligation of States Parties to provide assistance.

non-nuclear-weapon States persisted and that the complex nature of the issues involved continued to prevent agreement on a 'common formula'. The formal debates and informal consultations demonstrated the readiness of delegations to continue the search for a common approach on the substance of Negative Security Assurances.

"8. Against this background the Conference on Disarmament continued to recognize the importance of the question of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons and felt that there was a need to take a fresh look at this question, in light of recent transformations in the international political climate and other positive developments in order to achieve forward movement in this extremely important area so as to enable the Ad Hoc Committee to fulfil its mandate as soon as possible.

"9. Accordingly there was agreement on the recommendation that the Ad Hoc Committee should be re-established at the beginning of the 1993 session."

G. New Types of Weapons of Mass Destruction and New Systems of Such Weapons: Radiological Weapons

79. The list of documents presented to the Conference during its 1992 session under the agenda item is contained in the report submitted by the Ad Hoc Committee referred to in the following paragraph.

80. At its 629th plenary meeting on 6 August 1992, the Conference adopted the report of the Ad Hoc Committee re-established by the Conference under the agenda item at its 606th plenary meeting (see paragraph 8 above). That report (CD/1159) is an integral part of this report and reads as follows:

"I. INTRODUCTION

"1. In accordance with the decision taken by the Conference on Disarmament at its 606th plenary meeting held on 21 January 1992, as contained in document CD/1122, the Ad Hoc Committee on Radiological Weapons was re-established, for the duration of the 1992 session, with a view to reaching agreement on a convention prohibiting the development, production, stockpiling and use of radiological weapons. The Conference further decided that the Ad Hoc Committee would report to it on the progress of its work before the conclusion of its 1992 session.

"II. ORGANIZATION OF WORK AND DOCUMENTATION

"2. At its 613th plenary meeting on 20 February 1992, the Conference on Disarmament appointed Ambassador Serguei Batsanov of the Russian Federation as Chairman of the Ad Hoc Committee. Mr. Michael Cassandra of the United Nations Office for Disarmament Affairs served as Secretary of the Ad Hoc Committee.

"3. The Ad Hoc Committee held four meetings from 17 March to 27 July 1992. In addition, the Chairman held a number of informal consultations with delegations.

"4. In accordance with the decision of the Conference at its 603rd plenary meeting on 22 August 1991, the Ad Hoc Committee was open to non-member States invited by the Conference to participate in its work.

"5. In addition to various resolutions adopted by the United Nations General Assembly on the subject at its previous sessions, the Ad Hoc Committee had before it resolution 46/36 E adopted by the General Assembly at its forty-sixth session entrusting specific responsibilities to the Conference on Disarmament on this subject.

"6. The following working papers were presented to the Ad Hoc Committee:

CD/RW/WP.94 dated 17 March 1992 entitled 'Programme of Work and Tentative Timetable for the 1992 session';

CD/RW/WP.94/Add.1 dated 22 June 1992 entitled 'Timetable for the remainder of the 1992 session';

CD/RW/WP.95 dated 22 June 1992 entitled 'Report of Contact Group A';

CD/RW/WP.96 dated 27 July 1992 entitled 'Report of Contact Group B'.

"III. WORK DURING THE 1992 SESSION

"7. At its first meeting on 17 March 1992, at the suggestion of the Chairman, the Ad Hoc Committee agreed that it continue the same method of work adopted since 1987, that is, that Contact Group A continue to consider the prohibition of radiological weapons in the 'traditional' sense and that Contact Group B continue to consider issues relevant to the prohibition of attacks against nuclear facilities.* It was also agreed that the work of the two groups should be pursued as recommended in the 1991 report of the Ad Hoc Committee (CD/1099), that is, to draw upon the two annexes contained in that report as a basis for its work.

"8. At the same meeting, the Ad Hoc Committee appointed Mr. John L. Ausman of Canada to coordinate the work of Contact Group B. At a subsequent meeting on 23 March 1992, the Ad Hoc Committee appointed Mr. Nebojsa Dimitrijevic of Yugoslavia to coordinate the work of Contact Group A.

"9. The Ad Hoc Committee held a general exchange of views, after which its work was carried out principally in the framework of the Contact Groups as established above. On the basis of that work, the Coordinator of Contact Group A presented to the Ad Hoc Committee, at its 3rd meeting on 22 June 1992, the report of the Contact Group (CD/RW/WP.95). The Coordinator of Contact Group B presented the report of the Contact Group (CD/RW/WP.96) on 27 July 1992. These two reports are reproduced in Annexes I and II to the

* One delegation did not take part in the work on the prohibition of attacks against nuclear facilities.

present report and reflect the current state of consideration of the issues before the Ad Hoc Committee. It is understood that the contents of the Annexes are not binding on any delegation and are without prejudice to further work.

"IV. CONCLUSIONS AND RECOMMENDATIONS

"10. The work conducted by the Ad Hoc Committee during its 1992 session contributed further to the clarification of different approaches which continue to exist with regard to both the important subjects under consideration. It is recommended that the Conference on Disarmament re-establish the Ad Hoc Committee at the beginning of the 1993 session and that it give guidance to the Ad Hoc Committee on reviewing the organization of its work with the aim of fulfilling its mandate.

"ANNEX I

"Report of Contact Group A

"1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its first meeting on 17 March 1992, Contact Group A was re-established to continue consideration of the issues relevant to the prohibition of radiological weapons.

"2. Contact Group A held four meetings from 23 March to 22 June 1992. In addition, the Coordinator held a number of informal consultations with delegations.

"3. According to the guidelines set out during the first meeting of the Ad Hoc Committee, Contact Group A used as a basis for its substantive work the Coordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1991 (CD/1099, Annex I, Attachment). The Contact Group reviewed the draft articles for a convention on the prohibition of radiological weapons contained therein. New language was added in the footnote attached to the second alternative of both 'Scope' and 'Definitions'. Further, in the section 'Verification and Compliance' the bracketed language in paragraph 3 was deleted, as well as the proposal in paragraph 2 of the 'Annex'. In consequence, the footnote attached to paragraph 6 of 'Other Main Elements' was also deleted.

"4. The amended Coordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.

"5. The Coordinator's record is not binding upon any delegation and does not preclude any delegation from introducing proposals to the text as a whole or the elements thereof at a later stage. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

"Attachment

"DRAFT ARTICLES FOR A CONVENTION ON THE PROHIBITION OF RADIOLOGICAL WEAPONS

"PREAMBLE

"The States Parties to this Convention, hereinafter referred to as the 'Parties to the Convention',

"desiring to contribute to the realization of the purposes and principles of the Charter of the United Nations,

"determined to act with a view to achieving progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction as well as the development of new types of such weapons as radiological weapons,

....

"bearing in mind that the prohibition of radiological weapons is a step in the process towards general and complete disarmament,

"further bearing in mind longlasting effects of radioactive contamination on living creatures as well as on the environment,

"Have agreed as follows:

"I. SCOPE

"Paragraph 1

"First alternative

"Each Party to the Convention undertakes to prohibit radiological weapons and hence never under any circumstances

"(a) to disseminate deliberately any radioactive material, including radioactive waste, for the purpose of causing injury, death, damage or destruction by means of the radiation produced directly or indirectly by the decay of such material;

"(b) to develop, produce, stockpile, otherwise acquire, possess or transfer any device specifically designed for the dissemination of radioactive material prohibited under (a) of this paragraph.

"Second alternative

"[Each Party to the Convention undertakes not to develop, produce, stockpile, otherwise acquire, possess, transfer or use under any circumstances Radiological Weapons as defined in Section II.] 1/

"1/ Views were expressed that the second alternative of paragraph 1 of 'Scope', combined with the second alternative of 'Definitions' needed further study by all delegations to see whether this or modified language would provide a definition of a radiological weapon which would allow for the deletion of the first alternative and possibly for the deletion of paragraphs 1 and 2 of 'Other Main Elements'.

"Paragraph 2

"Each Party to the Convention undertakes to take any measures it considers necessary in accordance with its constitutional procedures and its international obligations anywhere under its jurisdiction and control to

"(a) prohibit and prevent any activity which would constitute a violation of the obligations undertaken by the Parties to the Convention;

"(b) prohibit the diversion and prevent the loss of radioactive material which could be used for purposes prohibited by this Convention.

"Paragraph 3

"Each Party to the Convention undertakes not to assist, encourage or induce anyone to engage in activities prohibited by the provisions of this Convention.

"[II. DEFINITIONS]

"First alternative

"[For the purposes of this Convention the term 'radiological weapon' means:

"(i) any device specifically designed for the dissemination of radioactive material to cause [as its primary effect] injury, death, damage or destruction by means of the decay of such material,

"(ii) any radioactive material specifically designed and prepared for employment, by its dissemination, to cause injury, death, damage or destruction by the decay of such material,

"(iii) any other radioactive material if used for employment by its dissemination to cause injury, death, damage or destruction by the decay of such material.]

"Second alternative

"[For the purpose of the Convention, the term 'radiological weapon' means any device containing radioactive material or waste as its principal harmful element and specifically designed or used to cause injury, death, environmental damage, or destruction through the direct or indirect effects of ionizing radiation, without involving the critical assembly of any fissile material.] 1/

"1/ Views were expressed that the second alternative of paragraph 1 of 'Scope', combined with the second alternative of 'Definitions' needed further study by all delegations to see whether this or modified language would provide a definition of a radiological weapon which would allow for the deletion of the first alternative and possibly for the deletion of paragraphs 1 and 2 of 'Other Main Elements'.

"III. PEACEFUL USES

"Paragraph 1

"Nothing in this Convention should be interpreted as affecting in any way

"(a) the full exercise of the inalienable rights of all Parties to the Convention, without discrimination, to develop, acquire and use nuclear technology, equipment and materials for the peaceful use of nuclear energy and all peaceful applications of their nuclear programmes for economic and social development in accordance with their national priorities, needs and interests, bearing in mind the need to prevent the proliferation of nuclear weapons in all its forms. International cooperation in the peaceful uses of nuclear energy should be conducted under agreed and appropriate international safeguards applied on a non-discriminatory basis;

"(b) the undertakings of Parties to the Convention to contribute to the fullest possible extent to international cooperation and assistance to ensure the development and effective implementation of adequate measures of protection for all States against the harmful effects of radiation.

"Paragraph 2

"Nothing in this Convention shall be interpreted as requiring or permitting a Party to the Convention to take measures which could affect the programmes of other States for peaceful uses of nuclear energy or technology for their economic or social development.

"IV. OTHER MAIN ELEMENTS

"Paragraph 1

"The provisions of this Convention shall not apply to nuclear explosive devices or to radioactive material produced by them. 1/

"Paragraph 2

"Nothing in this Convention shall be interpreted as in any way legitimizing the development and the use of nuclear weapons or detracting from the obligations of States to refrain from the use or threat of use of such weapons. 1/, 2/

"Paragraph 3

"Parties to the Convention undertake to pursue urgently negotiations for the cessation of the nuclear arms race, the conclusion of effective measures to prevent the use or threat of use of nuclear weapons and the achievement of nuclear disarmament. 2/, 3/

"1/ Objections were raised against the need for this paragraph.

"2/ A view was expressed that this subject might be better dealt with in the preambular part.

"3/ Some delegations were of the view that such an undertaking was outside the purview of this Convention.

"Paragraph 4

"Nothing in this Convention shall be interpreted as in any way limiting or detracting from rules of international law, including

"(a) the Charter of the United Nations;

"(b) law applicable to armed conflicts;

"(c) obligations assumed by Parties to the Convention under other international agreements.

"Paragraph 5

"Ten years after entry into force of the Convention, or earlier if requested by a simple majority of States Parties, a Conference of States Parties to the Convention shall be held at Geneva, Switzerland. The Conference shall review the operation of the Convention with a view to assuring that the purposes of the preamble and the provisions of the Convention were being realized. Such review shall take into account any relevant technological developments.

"At intervals of not less than five years thereafter, a simple majority of the States Parties to the Convention may obtain by submitting a proposal to this effect to the Depositary, the convening of a Conference with the same objectives.

"If no Conference has been convened pursuant to paragraph 2 of this Article within 10 years following the conclusion of a previous Conference, the Depositary shall solicit the views of all States Parties to this Convention, concerning the convening of such a Conference. If one third of the States Parties respond affirmatively, the Depositary shall take immediate steps to convene the Conference.

"Paragraph 6

"Each State Party to the Convention undertakes as it considers appropriate to provide or support technical and humanitarian assistance in accordance with the provisions of the Charter of the United Nations, to any State Party which so requests, harmed as a result of a violation of the Convention by another State Party or as a result of the use of radiological weapons by a State not party to the Convention.

"For purposes of assistance, the services of appropriate international organizations may also be utilized.

"Paragraph 7

"Any State Party to this Convention may propose amendments to the Convention. The text of any proposed amendment shall be submitted to the Depositary, who shall promptly circulate it to all States Parties.

"An amendment shall enter into force for all States Parties to this Convention which have accepted it, upon the deposit with the Depositary of instruments of acceptance by a majority of States Parties. Thereafter it shall enter into force for any remaining State Party on the date of deposit of its instrument of acceptance.

"Paragraph 8

"The Secretary-General of the United Nations shall be the Depositary of this Convention.

"V. VERIFICATION AND COMPLIANCE

"Paragraph 1

"Parties to the Convention shall exchange to the fullest possible extent, bilaterally or multilaterally, information necessary to provide assurance of fulfilment of their obligations under the Convention.

"Paragraph 2

"Parties to the Convention undertake to consult one another and to cooperate in solving any problems which may be raised in relation to the objectives of, or in the application of, the provisions of the Convention.

"Consultation and cooperation pursuant to this paragraph may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. These international procedures may include the services of appropriate international organizations, as well as of a Committee of Experts. For these purposes the Depositary shall, within one month of the receipt of a request from any State Party to the Convention, convene a Committee of Experts.

"Paragraph 3

"Each Party to the Convention which has reasons to believe that any other Party to the Convention is acting in breach of the obligations deriving from the provisions of the Convention may lodge a complaint with the Depositary. Such a complaint shall include all relevant information as well as all possible evidence supporting its validity. In order to evaluate such information, the Depositary may convene the Committee of Experts.

"The Depositary, assisted by the Committee of Experts, shall conduct an investigation of the alleged facts, whenever the evaluation of the information provided to him indicates that such an investigation is warranted.

"The Committee shall transmit to the Depositary a summary of its findings of fact, incorporating all views and information presented to the Committee during its proceedings. The Depositary shall distribute the summary to all Parties to the Convention and to the Security Council and shall indicate his conclusions and suggestions for possible action. In case of urgency, the Depositary may request the Committee to submit its report within 10 days.

"Paragraph 4

"Each Party to the Convention undertakes to cooperate to the fullest possible extent with the Committee of Experts, in accordance with the provisions of the Charter of the United Nations.

"Paragraph 5

"The functions and rules of procedure of the Committee of Experts mentioned in the above paragraphs 2, 3, and 4 are set out in the Annex, which constitutes an integral part of the Convention.

"Paragraph 6

"The provisions of paragraph 3 of this section shall not be interpreted as affecting the rights and duties of Parties under the Charter of the United Nations, including bringing to the attention of the Security Council concerns about compliance with this Convention.

"ANNEX

"1. The Committee of Experts shall undertake to make appropriate findings of fact and provide expert views relevant to any problem raised pursuant to the Convention by the Party requesting the convening of the Committee. It may be requested by the Depositary to carry out investigations in case of complaints lodged by a Party to the Convention.

"2. The work of the Committee of Experts shall be organized in such a way as to permit it to perform the functions set forth in paragraph 1 of the Annex. In the process of such investigations, including fact-finding, every effort should be made to apply appropriate methods and procedures which are non-discriminatory and which do not unduly interfere with the internal affairs of other States or jeopardize their economic and social development.

"3. The Depositary shall:

- compile and maintain a list of qualified experts whose services may be available for the work of the Committee of Experts in accordance with paragraphs 1 and 2 of the Annex;
- base the list of qualified experts on proposals which had been made to him by Parties to the Convention;
- appoint members of the Committee of Experts from such a list with due regard to ensuring appropriate geographical balance and to the character of the question involved.

"4. The Depositary or his representative shall serve as the Chairman of the Committee.

"5. Each expert may be assisted at meetings by one or more advisers.

"6. Each expert shall have the right, through the Chairman, to request from States, and from international organizations, such information and assistance as the expert considers desirable for the accomplishment of the Committee's work. Each Party undertakes not to use deliberate concealment measures which impede verification of compliance with the Convention.

"ANNEX II

"Report of Contact Group B

"1. In accordance with the decision taken by the Ad Hoc Committee on Radiological Weapons at its 1st meeting on 17 March 1992, Contact Group B was re-established to continue consideration of the issues relevant to the prohibition of attacks against nuclear facilities.

"2. Contact Group B held five meetings from 23 March to 27 July 1992. In addition, the Coordinator held private consultations with some delegations.

"3. According to guidelines set out during the 1st meeting of the Ad Hoc Committee, Contact Group B used as a basis for its substantive work the Coordinator's record as contained in the Report of the Ad Hoc Committee to the Conference on Disarmament in 1991 (CD/1099, Annex II, Attachment). The Contact Group focused on the most basic elements of its work, that related to the scope of an agreement, and reviewed one by one the three existing alternatives. Two new alternatives were circulated as informal documents but were withdrawn as neither attracted wide support. A modification has been made under the 'Criteria' section, with the deletion of '[10¹⁸]' in paragraph 1 (iii), (iv) and (v).

"4. The amended Coordinator's record is attached to the report and reflects the current stage of the Contact Group's consideration of the question.

"5. The Coordinator's record is not binding upon any delegation and its main purpose is to facilitate future consideration. It is recommended that it be appended to the Ad Hoc Committee's report to the Conference on Disarmament, as a basis for future work.

GERMANY

Discussion PaperRadiological Weapons

I.

The agenda for the 2002 session of the CD contains under item 5 the issue of radiological weapons. No Ad Hoc Committee has been established on this topic since 1993.

Against the backdrop of an overall changed security situation, the new threats of terrorism and in particular the fact that a "dirty bomb" could be a terrorists' weapon of choice it is suggested to explore whether the issue of radiological weapons should again be actively considered by the Conference on Disarmament.

The exploration should be undertaken on the basis of the following understanding:

- The discussion should establish whether a ban on radiological weapons should be pursued; a mere continuation of the work that was conducted by the CD until 1992 should not be the goal of the exercise.
- Any approach considered for radiological weapons should strengthen and not detract from or duplicate initiatives and efforts undertaken by the IAEA, States and relevant regulatory bodies aimed at reducing the threat of nuclear theft and sabotage.
- The consideration of the issue of radiological weapons should be conducted independently from the other issues which the CD has primarily focused on over the last months and years; i.e. it should not be construed as detracting from the need to overcome the present stalemate in the CD and start substantive work on these other issues.

II.

For a long time radiological weapons have been considered a secondary issue, as no such weapons have existed and as, during the discussion of the subject, a number of problems have arisen with regard to definitions, scope and verifiability of a treaty (originally suggested in a joint working paper submitted to the CD by the US and the USSR in 1979) on banning the development, production, stockpiling and use of radiological weapons.

Revisiting the issue today we have to proceed from the following:

There is now an acute awareness of the risks that a "dirty bomb" could be used in particular by non-State actors. In the face of inadequate controls of the world's radioactive sources

there is now a special focus on protecting nuclear material against terrorism or theft. The IAEA is serving as a catalyst for these efforts by inter alia providing assistance to States, establishing recommendations for minimum levels of security and providing the forum for amending the Convention on the Physical Protection of Nuclear Material of 1980 with a view to extending its coverage. Still there is no treaty requiring countries using radioactive material usable for radiological weapons to protect it from being stolen. As the Director-General of IAEA Mohamed ElBaradei put it: "Bringing the global inventory of radioactive material under proper controls will require a sustained and concerted effort".

III.

Exploring the issue of radiological weapons the following aspects could be addressed:

- Should radiological weapons be banned? Could such a ban, which would create a new international norm, contribute to addressing the new security threats that we are facing?
- Could such a ban further legitimize and give an impetus to international efforts aimed at providing for more effective protection and control of radioactive materials?
- Could an agreement or treaty help enhance international cooperation on the protection of radioactive materials by e.g. providing for a provision to that effect?
- Could such an agreement or treaty also help prevent non-State actors from gaining access to relevant radioactive material/acquiring radiological weapons? (cf. the CWC contains a specific provision which establishes a common minimum standard of national implementation and inter alia requires the enactment of penal legislation relating to any prohibited activity undertaken anywhere on the territory of each State party or in any other place under the jurisdiction of control of that party.)
- Is it possible to arrive at an agreed definition of radiological weapons? (A clear distinction would have to be drawn between nuclear and radiological weapons. Radiological weapons might be conceived as weapons containing radioactive material, but not using that material to produce a nuclear explosion, as is the case with a nuclear weapon. To illustrate the point: dirty bombs would be constructed of conventional explosives and radioactive material, the detonation of which would result in the dispersion of the radioactive material contained in the bomb.)
- Should a treaty or agreement on radiological weapons contain verification provisions? Would a consultation and cooperation mechanism make sense? (cf. recent proposal by Senator Richard Lugar to create an international verification body holding all the States that possess WMD or programmes that support them accountable. Under the rules he proposes for that body, the relevant nations would be required to secure weapons and materials from theft or proliferation.)