

UN IIRD,ADV

Ad Hoc Committee on Radiological Weapons

AUG 14 1990

UN/ISA COLLECTION

## 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 1 March 1990, 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 15 March to 30 July 1990. 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 1989 (CD/946, 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 1/ 2/

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.

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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, 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 in Paragraph 1 under Other Main Elements constitute one complete and consistent set of elements to be included in a draft 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.

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.

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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.

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  $6 \times 10^{16}$  [ $10^{17}$ ] 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.

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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.

## 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 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.

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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 substantiated, and shall immediately notify States Party to the Treaty of 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 a change, 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.

VERIFICATION AND COMPLIANCE

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.

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.

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1/ Views were expressed that this provision calls for further discussion.

Paragraph 2First 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 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 States Parties of the results of the investigation.

Paragraph 5First 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 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. 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.

OTHER MAIN ELEMENTS

Paragraph 1

A State Party may mark its nuclear facilities included in the Register with Special Marking.

Paragraph 2 3/

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.

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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.