



United Nations Conference to negotiate a legally-binding instrument to prohibit nuclear weapons leading to their total elimination

General exchange of views: Institutional Arrangements

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Madam President,

We are now embarking upon the last section of this conference. It is dedicated to the institutional arrangements for the nuclear weapons ban-treaty.

During this week we had fruitful discussions on the treaty's substance. The question we should ask ourselves now is what would be the most suitable institutional frame for the treaty as well as the contents of provisions regarding accession, reservation, entry into force, withdrawal and the possible need for a Secretariat.

The Treaty's effectiveness and the level of support will hinge to a great extent on those issues. They should merit therefore our careful scrutiny.

Madam President,

At the very first session of the Open Ended Working Group "Taking Forward Multilateral Nuclear Disarmament Negotiations", held in Geneva last year, Brazil submitted in its national capacity the document (A/AC.286/WP.10) on possible elements for a nuclear weapons ban-treaty.

On that occasion we proposed a "hybrid arrangement". It differs from both a standalone instrument and a comprehensive convention. The former would be a treaty focused almost exclusively on core prohibitions, whereas the latter would address all issues pertaining to nuclear weapons, such as the fundamental prohibitions and obligations of States, a verification regime for nuclear weapons, the elimination of nuclear arsenals and measures to ensure irreversibility of fissile materials used for proscribed military purposes.

A hybrid agreement comprises either a set of mutually reinforcing instruments dealing progressively with various aspects of the nuclear disarmament process, or a main prohibition agreement followed by subsidiary agreements or protocols thereto.

Under ideal political circumstances a comprehensive convention would be undoubtedly the best option since all issues could be dealt with in a single stroke. But in view of the Nuclear Weapons States' and allied countries' current reservations about a ban-treaty, Brazil deems the notion of a hybrid arrangement to be the most viable option on the following grounds:

The effects of a nuclear weapons ban-treaty, whatever its format, will be first and foremost of a political and legal nature, and it will have a great impact in shaping and driving the disarmament agenda. By setting out a clear commitment and parameters regarding further initiatives for the actual elimination of nuclear weapons, bearing in mind the nuclear arms possessing States, it translates into legally-binding action the so far elusive obligation contained in Article VI of the NPT.

Secondly, such an agreement will allow for flexibility for confidence building measures with a view to strengthening its support base. This approach should provide for a smooth transition from the nuclear status quo to nuclear disarmament, taking into account the concerns of all States simultaneously.

Madam President,

Let me express our views on accession. Brazil is of the opinion that prior destruction or dismantling of all stockpiles should not be a requirement for accession. In other words, the treaty should envisage the possibility of accession before complete stockpile destruction. Of course, in this case, the applicant would be required to submit to the treaty parties' consideration a detailed plan on how it will carry out the obligation to eliminate its stockpiles.

Brazil favours this approach based on the positive experience of the Treaty of Tlatelolco. Article 29 of the Treaty defines the requirements for entry into force of the Treaty for an individual ratifying State, but also grants States the right to waive those requirements, wholly or in part, at the time of ratification or subsequently.

Those requirements were the ratification by all States within the area of the application of the Treaty, the ratification by all powers possessing nuclear weapons of a specific protocol addressed to them, the ratification by all States having "de jure" or "de facto" international responsibility for territories situated in the area of application of the treaty of protocols specifically addressing their situation, and the conclusion of agreements on the application of the Safeguards System of the IAEA.

As an analogy, one could think of a flexible and yet strong arrangement whereby in order to accede to the future Treaty, States possessing nuclear weapons would have to fulfill certain requirements on the subsequent elaboration of disarmament obligations and arrangements. These arrangements would be necessary to ensure that they are going to eliminate their nuclear arsenals in accordance with well established timelines, in an irreversible, transparent, and verifiable manner.

Brazil believes that an arrangement along those lines would promote adherence to the treaty thereby pushing forward the goal of its universalization.

Madam President,

In order to reaffirm the complementarity that exists between the future Treaty and other cornerstones of the nuclear disarmament and non-proliferation regime, such as the Treaty on the Non-Proliferation of Nuclear weapons, its text should clearly state that nothing in the Treaty should be interpreted as in any way limiting or detracting from the rights and obligations relating to the use of nuclear energy for peaceful purposes, nuclear disarmament and nuclear non-proliferation under the Treaty on the Non-Proliferation of Nuclear Weapons, the Comprehensive Nuclear-Test Ban Treaty, the Antarctic Treaty, the Outer Space Treaty, and the Treaties establishing nuclear-weapon-free zones.

In light of the inherent humanitarian character of the future Treaty, it is important to ensure that its Articles shall not be subject to reservations. Moreover, in order to ensure its timely entry into force, it should have a quantitative requisite in this regard. Entry into force should not depend on the ratification of specific States.

Brazil believes it would be useful for the implementation of the future Treaty that the instrument be assessed through periodical Review Conferences, which could, at first, focus on promoting the universalization of the Treaty. Ideally, convening Review Conferences every five years could be considered. In addition, we highlight the importance of allowing for the convening of Extraordinary Sessions, including with a view to negotiating complementary instruments to the Treaty providing a general plan for destruction of nuclear arsenals and measures related to a non-discriminatory verification regime.

Any State Party should be entitled to propose amendments to the Treaty, the text of which should be submitted to the Secretary-General of the United Nations, who should promptly circulate it to all States Parties. The decision to take up the proposal should be made by a majority of the States parties present and voting at the next Review Conference of the Ban Treaty. The adoption of an amendment at a meeting of the Review Conference on which consensus cannot be reached shall require a two-thirds majority of States Parties.

A provision on withdrawal should include strong language and establish specific criteria compatible with the importance of the object of the Treaty. We could take Article X of the NPT as a basis, but seek also to reflect the particular characteristics of the future Treaty, which aims at achieving and maintaining a world free of nuclear weapons.

Last but not least, Brazil does not envisage the need for the establishment of a permanent Secretariat, as the Review Conferences could count on UNODA's assistance and support for that purpose.

Thank you.