



ORGANISMO PARA LA PROSCRIPCIÓN DE LAS ARMAS NUCLEARES EN LA  
AMÉRICA LATINA Y EL CARIBE

**Inf.12/2017**  
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**Resumen de la reunión informal celebrada el 8 de junio de 2017 sobre  
el proyecto de Convención para la prohibición de las armas nucleares**

En la reunión 307 del Consejo, con fecha de 6 de abril de 2017, el Secretario General del OPANAL propuso a los Estados Miembros llevar a cabo una reunión informal para considerar los resultados de la primera sesión de la “Conferencia de las Naciones Unidas para negociar un instrumento jurídicamente vinculante que prohíba las armas nucleares, con miras a su total eliminación”, convocada mediante la resolución 71/258 de la Asamblea General de las Naciones Unidas.

La reunión informal se llevó a cabo el jueves 8 de junio a las 10:00 am en la sede del OPANAL. Asistieron el Secretario General del OPANAL y representantes de los siguientes Estados Miembros: Argentina, Brasil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Haití, México y Uruguay.

El Secretario General dio la bienvenida a los representantes de los Estados Miembros. Recordó que el primer objetivo de la reunión es realizar un intercambio de ideas informal y preliminar sobre el proyecto de Convención sobre la prohibición de armas nucleares presentado por la Presidenta de la Conferencia, Embajadora Elayne Whyte. Dicho proyecto (**en anexo**) será discutido en la segunda sesión de la Conferencia, a partir del 15 de junio de 2017 en Nueva York.

El Secretario General mencionó que una motivación para realizar dicho intercambio de ideas es que la Presidenta de la Conferencia ha expresado estar interesada en la participación de los Estados Miembros del OPANAL. De hecho, el Secretario General informó a la Presidenta sobre la convocación de la reunión para discutir el proyecto de Convención.

La Secretaría del OPANAL circuló entre los asistentes a la reunión informal el proyecto de Convención y un *non-paper* del Secretario General (**en anexo**) que contenía el preámbulo con un reacomodo de sus párrafos y algunas sugerencias.

El Secretario General afirmó que la Presidenta de la Conferencia ha realizado un trabajo profesional al recoger las diferentes posturas y propuestas de los Estados. Explicó que la Secretaría realizó un examen comparativo entre el proyecto de Convención y el documento informativo presentado por la Secretaría del OPANAL a la Conferencia, titulado *Recommendations for the negotiation of a legally binding instrument to prohibit nuclear weapons, leading towards their total*

*elimination* (Doc. A/CONF.229/2017/WP.1, **en anexo**). Dicho documento informativo contiene disposiciones del Tratado de Tlatelolco que podrían ser incluidos en la Convención. Prácticamente todos los puntos incluidos en el documento informativo de la Secretaría se reflejaron en el proyecto de Convención.

Lo que no se contempló, señaló el Secretario General, fue una definición de armas nucleares y el derecho a los usos pacíficos de la energía nuclear.

Respecto a la definición de armas nucleares, el Secretario General comentó que los instrumentos jurídicos internacionales deben definir, preferentemente, los términos a los cuales se dirigen sus disposiciones. Una Convención para prohibir las armas nucleares, como en el caso del Tratado de Tlatelolco, debería definir arma nuclear (lo que se está prohibiendo).

La definición de arma nuclear contenida en el Artículo 5 del Tratado de Tlatelolco, afirmó el Secretario General, no ha sido cuestionada por ningún Estado, incluyendo a los Estados poseedores de armas nucleares. A pesar de que dicha definición fue redactada hace 50 años, sigue siendo reconocida y aceptada internacionalmente. A la fecha, es la única definición de arma nuclear existente entre los instrumentos jurídicos internacionales en materia de no proliferación nuclear. El Secretario General informó que, durante la primera sesión de la Conferencia, algunas delegaciones sugirieron incluir una definición de arma nuclear en la Convención, mientras que otras mencionaron que no sería estrictamente necesario.

El segundo elemento importante no incluido en el proyecto de Convención fue el derecho inalienable de los Estados a desarrollar la energía nuclear con fines pacíficos. Como es el caso del Tratado de Tlatelolco, la prohibición de las armas nucleares no va en detrimento de la utilización pacífica de la energía nuclear. El Secretario General señaló que una mención al respecto debería ser incluida en el preámbulo de la Convención.

El Secretario General mencionó que el preámbulo del proyecto de Convención está, en general, bien escrito y que tiene un lenguaje políticamente correcto. El texto aborda desde un inicio el derecho internacional humanitario y las consecuencias humanitarias de las armas nucleares. El Secretario General dio la bienvenida a dicho enfoque, pero señaló que no debería ser el único punto de referencia en las negociaciones de la Convención. Prosiguió a dar lectura al primer párrafo del preámbulo propuesto por la Presidenta:

***“Deeply concerned*** about the catastrophic humanitarian consequences that would result from any use of nuclear weapons and the consequent need to make every effort to ensure that nuclear weapons are never used again under any circumstances,”

Esta referencia, indicó el Secretario General, es importante pero al ser el párrafo 1 preambular da la impresión de que la Convención es sobre la prohibición del uso de las armas nucleares y no simplemente sobre la prohibición de dichas armas.

Señaló que el primer párrafo debería ser el referente a la realización de los objetivos y principios de la Carta de las Naciones Unidas. Después de todo se trata de una Conferencia de las Naciones Unidas. Dicho párrafo es el siguiente:

**“Determined** to contribute to the realization of the purposes and principles of the Charter of the United Nations,”

Como segundo párrafo del preámbulo del proyecto de Convención, la Secretaría incluyó el primer párrafo preambular del Tratado de Tlatelolco por tratarse de un objetivo relacionado con la Carta de las Naciones Unidas:

**“Deseosos** de contribuir, en la medida de sus posibilidades, a poner fin a la carrera de armamentos, especialmente los nucleares, y a la consolidación de un mundo en paz, fundada en la igualdad soberana de los Estados, el respeto mutuo y la buena vecindad”.

Por otro lado, el párrafo 14 preambular del proyecto de Convención incluye referencias al Tratado sobre la no proliferación de las armas nucleares (TNP), al Tratado sobre la prohibición completa de los ensayos nucleares (CTBT) y a los tratados que establecen zonas libres de armas nucleares (ZLAN). Al respecto, el Secretario General indicó que le parece más conveniente separar cada una de dichas referencias en párrafos individuales para destacar dichos instrumentos.

En cuanto al artículo 1 del proyecto de Convención, referente a las obligaciones generales, su texto incluye lo contenido en el documento informativo de la Secretaría del OPANAL. Es decir, contiene todas las prohibiciones mencionadas en el Tratado de Tlatelolco.

El proyecto de Convención incluye en su artículo 2 una disposición sobre declaraciones de los Estados Parte. Esta disposición es similar al Artículo 14 del Tratado de Tlatelolco.

Sobre el artículo 3 del proyecto de Convención, el Secretario General indicó que probablemente generará mucho debate durante la segunda sesión de la Conferencia. Este artículo es referente a las salvaguardias y se lee:

“Each State Party undertakes to accept safeguards, with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, as provided in the Annex of this Convention.”

Al respecto, el Secretario General recordó que los Estados negocian los acuerdos de salvaguardia con el Organismo Internacional de Energía Atómica (OIEA), no los “aceptan” pasivamente.

Sobre el artículo 4 del proyecto, referente a las medidas de verificación y control, se incluye una fecha un tanto enigmática: 5 de diciembre de 2001. El Secretario General indicó que dicha fecha ha sido explicada por la Presidenta de la Conferencia en su comunicación REF. MCR-ONUG/2017-261 13.17 (**en anexo**) de fecha 24 de mayo de 2017, página 5:

“The draft also considers that there are three States, namely Belarus, Kazakhstan and Ukraine, which have voluntarily given up nuclear weapons pursuant to a treaty commitment. In order to avoid subjecting any State to a duplicative verification exercise, the draft mandates South Africa-method verification for those States which have possessed, manufactured or acquired nuclear weapons from the date that the Lisbon Protocol under the Start Treaty was implemented – 5 December 2001.”

El proyecto de Convención contiene un Anexo sobre los acuerdos de salvaguardias con el OIEA y hace referencia a dos términos: *source material* y *special fissionable material*. La Secretaría mencionó que el primer concepto es material nuclear en su estado natural u originario y el segundo es el material nuclear enriquecido. El anexo sobre los acuerdos de salvaguardia también hace referencia al documento del OIEA INFCIRC/153Corr., que se trata del acuerdo básico de salvaguardias nucleares negociado por los Estados no poseedores de armas nucleares que son partes en el TNP.

El Secretario General concluyó sus observaciones sobre el proyecto de Convención indicando que la segunda sesión de la Conferencia no incluirá un debate general, sino una discusión párrafo por párrafo del proyecto. Agregó que los puntos más difíciles tendrán que ser resueltos mediante consultas de la Presidenta con algunas delegaciones. Afirmó que las condiciones para el éxito de la Conferencia son muy promisorias. Indicó que se prevé la ausencia de los 9 Estados que poseen armas nucleares y de sus aliados en la segunda sesión de la Conferencia. Sin embargo, agregó, el gran resultado de la Conferencia será la introducción en el derecho internacional de una norma de prohibición de las armas nucleares estandarizada.

El representante de Cuba compartió en la reunión la postura de su país sobre la negociación de la Convención. Enumeró una serie de puntos que Cuba defenderá en la Conferencia y que se deberían tener en cuenta por los Estados al negociar un instrumento de prohibición de las armas nucleares:

- El tratado no debe incluir cláusulas que permita excepciones a las prohibiciones.
- Sería peligroso adoptar un tratado que considere legítimo el uso o la amenaza del uso de armas nucleares en determinado contexto.
- Aunque se trata de una negociación para la prohibición de las armas nucleares, el preámbulo debería reflejar el objetivo de la eliminación de las mismas.
- Dentro de los objetivos y principios, el tratado debería incluir la referencia a que el uso o la amenaza del uso de las armas nucleares es incompatible con el derecho internacional, incluido el derecho internacional humanitario.

- Debería quedar establecido que el empleo de armas nucleares es un crimen de guerra y de lesa humanidad.
- El texto debería incluir prohibiciones específicas relacionadas con armas nucleares, incluido el sistema de vectores, el uso y amenaza de uso, el almacenamiento, posesión, despliegue, diseño, investigación, prueba - incluyendo ensayos subcríticos o el empleo de métodos computarizados.
- En caso de que se establezca un apartado sobre interoperabilidad, es decir la relación de los Estados Parte con Estados no parte en el tratado, el instrumento sobre la prohibición de las armas nucleares no debe permitir a las Partes cooperar militarmente con los segundos.
- Si se contempla una prohibición sobre la producción o suministro de material fisionable para armas nucleares, se debe contemplar también las existencias de dicho material. Al mismo tiempo, no se debe impedir que ese material se use para fines pacíficos.
- Cuba apoya que el tratado no acepte las reservas, pero podría permitir enmiendas luego de su entrada en vigor.
- Debe tener una vigencia indefinida, con reuniones periódicas de las Partes.
- La entrada en vigor del tratado debe estar sujeta a la ratificación de un número prudente de Estados, entre 40 y 50.
- Debe establecer que los Estados estén obligados a adoptar las medidas nacionales necesarias y se podría apoyar el establecer una unidad de apoyo para facilitar la implementación del tratado.

El Secretario General hizo hincapié en un punto levantado por Cuba, referente a la interoperabilidad. Mencionó que es un punto relevante porque tiene que ver con los Estados no poseedores de armas nucleares que mantienen acuerdos relativos al uso de armas nucleares y al emplazamiento de armas nucleares en sus territorios.

Sobre el punto de la prohibición de la producción de material fisionable, el Secretario General señaló que, a su parecer, la tendencia será que no se tratará el tema en las negociaciones. Mencionó que lograr un instrumento jurídico sobre la prohibición de las armas nucleares no impedirá la posterior negociación de un tratado sobre la prohibición de la producción de material fisionable.

El representante de Guatemala preguntó si el proyecto de Convención incluye un respaldo institucional que dé seguimiento a la implementación de la Convención. El Secretario General mencionó que la preocupación de la presidencia fue incluir lo esencial, sin crear complicaciones burocráticas ni presupuestales. Por un lado, el proyecto de Convención contempla el apoyo institucional del OIEA para la ejecución de las medidas de verificación. Por el otro, el proyecto de Convención menciona las reuniones periódicas de los Estados Parte (artículo 9). Indica que un año después de la entrada en vigor de la Convención se lleve a cabo la primera reunión de los Estados Parte y que cinco años después de su entrada en vigor, se lleve a cabo una conferencia de examen del instrumento. El Secretario General explicó que dichas conferencias serían apoyadas institucionalmente por la Oficina de las Naciones Unidas para Asuntos de Desarme (UNODA) y que los costos de dichas reuniones serán cubiertas por los Estados Parte en la Convención.

Siendo que no hubo más comentarios sobre el proyecto de Convención, se dio por terminada la discusión.

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**United Nations conference to negotiate a  
legally binding instrument to prohibit nuclear  
weapons, leading towards their total  
elimination**

22 May 2017

Original: English

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New York, 27-31 March 2017 and 15 June-7 July 2017

**Draft Convention on the Prohibition of Nuclear Weapons**

**Submitted by the President of the Conference**

The States Parties to this Convention,

*Deeply concerned* about the catastrophic humanitarian consequences that would result from any use of nuclear weapons and the consequent need to make every effort to ensure that nuclear weapons are never used again under any circumstances,

*Cognizant* that the catastrophic consequences of nuclear weapons transcend national borders, pose grave implications for human survival, the environment, socioeconomic development, the global economy, food security and for the health of future generations, and of the disproportionate impact of ionizing radiation on maternal health and on girls,

*Mindful* of the suffering of the victims of the use of nuclear weapons (Hibakusha) as well as of those affected by the testing of nuclear weapons,

*Basing themselves* on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited and the rule that care shall be taken in warfare to protect the natural environment against widespread, long term and severe damage, including a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population,

*Declaring* that any use of nuclear weapons would be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law,

*Reaffirming* that in cases not covered by this convention, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience,

*Determined* to contribute to the realization of the purposes and principles of the Charter of the United Nations,

*Bearing in mind* that the prohibition of nuclear weapons would be an important contribution towards comprehensive nuclear disarmament,

*Stressing* the urgent need to achieve further effective measures of nuclear disarmament in order to facilitate the elimination from national arsenals of nuclear weapons and the means of their delivery,

*Determined* to act towards that end,

*Determined also* to act with a view to achieving effective progress towards general and complete disarmament under strict and effective international control,

*Affirming* that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control,

*Reaffirming* the crucial importance of the Treaty on the Non-Proliferation of Nuclear Weapons as the cornerstone of the international nuclear non-proliferation regime and an essential foundation for the pursuit of nuclear disarmament, the vital importance of the Comprehensive Nuclear-Test-Ban Treaty as a core element of the nuclear disarmament and non-proliferation regime, and the contribution of the treaties establishing nuclear-weapon-free zones toward strengthening the nuclear non-proliferation regime and to realizing the objective of nuclear disarmament,

*Stressing* the role of public conscience in the furthering of the principles of humanity as evidenced by the call for the total elimination of nuclear weapons and recognizing the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, numerous non-governmental organizations and the Hibakusha,

*Have agreed as follows:*

**Article 1**  
**General obligations**

1. Each State Party undertakes never under any circumstances to:
  - (a) Develop, produce, manufacture, otherwise acquire, possess or stockpile nuclear weapons or other nuclear explosive devices;
  - (b) Transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly;
  - (c) Receive the transfer or control over nuclear weapons or other nuclear explosive devices directly, or indirectly;
  - (d) Use nuclear weapons;
  - (e) Carry out any nuclear weapon test explosion or any other nuclear explosion;
  - (f) Assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention;

(g) Seek or receive any assistance, in any way, from anyone to engage in any activity prohibited to a State Party under this Convention.

2. Each State Party undertakes to prohibit and prevent in its territory or at any place under its jurisdiction or control:

(a) Any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices;

(b) Any nuclear weapon test explosion or any other nuclear explosion.

## **Article 2 Declarations**

1. Each State Party shall submit to the Secretary-General of the United Nations, not later than 30 days after this Convention enters into force for it a declaration in which it shall declare whether it has manufactured, possessed or otherwise acquired nuclear weapons or other nuclear explosive devices after 5 December 2001.

2. The Secretary-General of the United Nations shall transmit all such declarations received to the States Parties.

## **Article 3 Safeguards**

Each State Party undertakes to accept safeguards, with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, as provided in the Annex to this Convention.

## **Article 4 Measures for States that have eliminated their nuclear weapons**

1. Each State Party that has manufactured, possessed or otherwise acquired nuclear weapons or other nuclear explosive devices after 5 December 2001, and eliminated all such weapons or explosive devices prior to the entry into force of the Convention for it, undertakes to cooperate with the International Atomic Energy Agency for the purpose of verification of the completeness of its inventory of nuclear material and nuclear installations.

2. Unless otherwise agreed by the States Parties, arrangements necessary for the verification required by this Article shall be concluded in an agreement between the State Party and the International Atomic Energy Agency. Negotiation of such an agreement shall commence within 180 days of the submission of the declaration provided for in Article 2. Such agreements shall enter into force not later than eighteen months after the date of the initiation of negotiations.

3. For the purpose of performing the verification required by this Article, the International Atomic Energy Agency shall be provided with full access to any location or facility associated with a nuclear weapon programme and shall have the right to request access on a case-by-case basis to other locations or facilities that the Agency may wish to visit.



**Article 5**  
**Measures for situations not covered by Article 4**

Proposals for further effective measures relating to nuclear disarmament, including provisions for the verified and irreversible elimination of any remaining nuclear weapon programmes under strict and effective international control, which may take the form of additional protocols to this Convention, may be considered at the Meetings of States Parties or Review Conferences. All States represented at the meeting or review conference may participate fully in such consideration. The meeting or review conference may agree upon additional protocols which shall be adopted and annexed to the Convention in accordance with its provisions.

**Article 6**  
**Assistance**

1. Each State Party in a position to do so shall with respect to individuals affected by the use or testing of nuclear weapons in areas under its jurisdiction or control, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion.
2. Each State Party with respect to areas under its jurisdiction or control contaminated as a result of activities related to the testing or use of nuclear weapons or other nuclear explosive devices, shall have the right to request and to receive assistance toward the environmental remediation of areas so contaminated.
3. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, non-governmental organizations or institutions, or on a bilateral basis.

**Article 7**  
**National implementation**

1. Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under this Convention.
2. Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control.

**Article 8**  
**International cooperation**

1. Each State Party shall cooperate with other States Parties to facilitate the implementation of the obligations of this Convention.
2. In fulfilling its obligations under this Convention each State Party has the right to seek and receive assistance.

**Article 9**  
**Meeting of States Parties**

1. The States Parties shall meet regularly in order to consider and, where necessary, take decisions in respect of any matter with regard to the application or implementation of this Convention and on the further elaboration of effective measures for nuclear disarmament, including:

- (a) The operation and status of this Convention;
- (b) Reports by States Parties on the implementation of their obligations under this Convention;
- (c) Matters arising from the declarations submitted under Article 2 of this Convention;
- (d) Proposals for effective measures relating to nuclear disarmament, including provisions for the verified and irreversible elimination of nuclear weapon programmes, including additional protocols to this Convention.

2. The first Meeting of States Parties shall be convened by the Secretary-General of the United Nations within one year of the entry into force of this Convention. Further Meetings of States Parties shall be convened by the Secretary-General of the United Nations on a biennial basis, unless otherwise agreed by the States Parties.

3. After a period of five years following the entry into force of this Convention, the Meetings of States Parties may decide to convene a conference to review the operation of this Convention with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on effective measures for nuclear disarmament, are being realized.

4. States not party to this Convention, as well as the United Nations, other relevant international organizations or institutions, regional organizations, the International Committee of the Red Cross and relevant non-governmental organizations may be invited to attend the Meetings of States Parties and the Review Conferences as observers.

**Article 10**  
**Costs**

1. The costs of the Meetings of the States Parties and the Review Conferences shall be borne by the States Parties and States not parties to this Convention participating therein, in accordance with the United Nations scale of assessment adjusted appropriately.

2. The costs incurred by the Secretary-General of the United Nations under Article 2 of this Convention shall be borne by the States Parties in accordance with the United Nations scale of assessment adjusted appropriately.

**Article 11**  
**Amendments**

1. At the Meetings of States Parties or Review Conferences consideration may be given to any proposal for amendments of this Convention. The meeting or review conference may agree upon amendments which shall be adopted by a majority of two-thirds of the States Parties present and voting at the meeting or review conference.
2. The amendment shall enter into force for each State Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of the States Parties. Thereafter, it shall enter into force for any other State Party upon the deposit of its instrument of ratification of the amendment.

**Article 12**  
**Settlement of disputes**

1. When a dispute arises between two or more States Parties relating to the interpretation or application of this Convention, the parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of the parties' choice, including recourse to the Meetings of States Parties and, by mutual consent, referral to the International Court of Justice in conformity with the Statute of the Court.
2. The Meeting of States Parties may contribute to the settlement of the dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties concerned to start the settlement procedure of their choice and recommending a time limit for any agreed procedure.

**Article 13**  
**Universality**

Each State Party shall encourage States not party to this Convention to ratify, accept, approve or accede to this Convention, with the goal of attracting the adherence of all States to this Convention.

**Article 14**  
**Signature**

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

**Article 15**  
**Ratification**

This Convention shall be subject to ratification by signatory States.

**Article 16**  
**Entry into force**

1. This Convention shall enter into force 90 days after the fortieth instrument of ratification, acceptance, approval or accession has been deposited.

2. For any State that deposits its instrument of ratification, acceptance, approval or accession after the date of the deposit of the fortieth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force 90 days after the date on which that State has deposited its instrument of ratification, acceptance, approval or accession.

**Article 17**  
**Reservations**

The Articles of this Convention shall not be subject to reservations.

**Article 18**  
**Duration**

1. This Convention shall be of unlimited duration.
2. Each State Party shall in exercising its national sovereignty have the right to withdraw from the Convention if it decides that extraordinary events, related to the subject matter of this Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Convention 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.
3. Such withdrawal shall only take effect three months after the receipt of the instrument of withdrawal by the Depositary. If, however, on the expiry of that three-month period, the withdrawing State Party is engaged in the situations referred to in Article 2 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, including any situation described in paragraph 4 of Article 1 of Additional Protocol I to these Conventions, the Party shall continue to be bound by the obligations of this Convention and of any annexed Protocols until the end of the armed conflict or occupation.

**Article 19**  
**Relations with other agreements**

This Convention does not affect the rights and obligations of the States Parties under the Treaty on the Non-Proliferation of Nuclear Weapons.

**Article 20**  
**Depositary**

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention.

**Article 21**  
**Authentic texts**

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention shall be equally authentic.

**Annex  
Safeguards**

1. Procedures for the safeguards required by Article 3 shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by Article 3 shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.
2. The Agreement referred to in paragraph 1 above shall be, or shall be equivalent in its scope and effect to, the agreement required in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/153 (corrected)). Each State Party shall take all appropriate steps to ensure that such agreement is in force for it not later than eighteen months after the date of entry into force for that State Party of this Convention.
3. Each State Party undertakes not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes to: (a) any non-nuclear-weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons unless subject to the safeguards required by Article III.1 of that Treaty; (b) any other State unless such material or equipment is subject to applicable safeguards agreements with the International Atomic Energy Agency and shall be used for exclusively peaceful purposes.

## **Draft Convention on the Prohibition of Nuclear Weapons**

The States Parties to this Convention,

(1) *Determined* to contribute to the realization of the purposes and principles of the Charter of the United Nations, **[preambular paragraph 7]**

(2) [*Desiring* to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards strengthening a world at peace, based on the sovereign equality of States, mutual respect and good neighborliness,] **[preambular paragraph 1 of the Treaty of Tlatelolco]**

(3) *Determined also* to act with a view to achieving effective progress towards general and complete disarmament under strict and effective international control, **[preambular paragraph 11]**

(4) *Bearing in mind* that the prohibition of nuclear weapons would be an important contribution towards comprehensive nuclear disarmament, and *also Stressing* the urgent need to achieve further effective measures of nuclear disarmament in order to facilitate the elimination from national arsenals of nuclear weapons and the means of their delivery, **[merge of preambular paragraphs 8 and 9]**

(5) *Determined* to act towards that end, **[preambular paragraph 10]**

(6) *Affirming* that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control, **[preambular paragraph 12]**

(7) *Cognizant* that the catastrophic consequences of nuclear weapons transcend national borders, pose grave implications for human survival, the environment, socioeconomic development, the global economy, food security and for the health of future generations, and of the disproportionate impact of ionizing radiation on maternal health and on girls, **[preambular paragraph 2]**

(8) *Deeply concerned* about the catastrophic humanitarian consequences that would result from any use of nuclear weapons and the consequent need to make every effort to ensure that nuclear weapons are never used again under any circumstances, **[preambular paragraph 1]**

(9) *Basing themselves* on the principles and rules of international humanitarian law, in particular the principle that the right of parties to an armed conflict to choose methods or means of warfare is not unlimited and the rule that care shall be taken in warfare to protect the natural environment against widespread, long term and severe damage, including a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population, **[preambular paragraph 4]**

(10) *Declaring* that any use of nuclear weapons would be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of **[international]** humanitarian law, **[preambular paragraph 5]**

(11) *Reaffirming* that in cases not covered by this convention, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience, **[preambular paragraph 6]**

(12) *Mindful* of the suffering of the victims of the use of nuclear weapons (Hibakusha) as well as of those affected by the testing of nuclear weapons, **[preambular paragraph 3]**

(13) *Reaffirming* the crucial importance of the Treaty on the Non-Proliferation of Nuclear Weapons as the cornerstone of the international nuclear non-proliferation regime and an essential foundation for the pursuit of nuclear disarmament, **[preambular paragraph 13]**

(14) *Reaffirming also* the vital importance of the Comprehensive Nuclear-Test-Ban Treaty as a core element of the nuclear disarmament and non-proliferation regime, **[preambular paragraph 13]**

(15) **[Reiterating]** the contribution of the treaties establishing nuclear-weapon-free zones toward strengthening the nuclear non-proliferation regime and to realizing the objective of nuclear disarmament, **[preambular paragraph 13]**

(16) *Stressing* the role of public conscience in the furthering of the principles of humanity as evidenced by the call for the total elimination of nuclear weapons and recognizing the efforts to that end undertaken by the United Nations, the International Committee of the Red Cross, numerous non-governmental organizations and the Hibakusha, **[preambular paragraph 14]**

*Have agreed as follows:*

[...]





23 March 2017

Original: English

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**United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination**

New York, 27-31 March and 15 June-7 July 2017

Agenda item 8 (b)

**General exchange of views on all matters****Recommendations for the negotiation of a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination****Submitted by the secretariat of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean****I. Introduction**

1. The General Assembly, by its resolution [71/258](#), decided to convene a United Nations conference in 2017 to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination. The objective of the Conference is thus clearly stated in the title itself.
2. The States Members of the United Nations overwhelmingly consider that there is a legal gap in the sense that nuclear weapons, unlike other weapons of mass destruction, are not subject to prohibition in international law.
3. The international regime on the non-proliferation of nuclear weapons has had relative success as, since 1967, just four States have become possessors of nuclear weapons. Some progress in the reduction of nuclear arsenals is also to be acknowledged. However, these advances are not enough to fulfil the provisions of article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, which is the sole global commitment currently in existence in international law to achieve nuclear disarmament.
4. Among international efforts and initiatives on non-proliferation and nuclear disarmament, the establishment of nuclear-weapon-free zones represents a concrete achievement, given that it is focused on the prohibition of nuclear weapons, leading towards their total elimination.



## **II. Essential elements of a legally binding instrument to prohibit nuclear weapons**

5. The United Nations conference is convened in order to negotiate a legally binding instrument. It is not a deliberative meeting. The objective of the legally binding instrument is nuclear weapons, and it is aimed at prohibiting them. In other words, the intention of the General Assembly is to establish the illegality of nuclear weapons by means of a legally binding instrument.

6. A legally binding instrument must therefore include, inter alia:

- (a) A definition of what is being prohibited;
- (b) The scope of the prohibition;
- (c) Clauses concerning the modalities for ensuring compliance and measures in case of non-compliance;
- (d) A mechanism for deliberation and exchange of information among the contracting parties and the services necessary for its functioning;
- (e) Relationship to the United Nations, the International Atomic Energy Agency and the Treaty on the Non-Proliferation of Nuclear Weapons;
- (f) Participation;
- (g) Final clauses.

7. According to General Assembly resolution [71/258](#), the legally binding instrument should be conceived as leading towards the total elimination of nuclear weapons. This is an important clarification, as otherwise nuclear weapons would be made illegal or prohibited, but their existence would be authorized and their total elimination would not be foreseen. The prohibition envisaged does not address the use or the threat of use of nuclear weapons. The illegality of nuclear weapons, once established, logically leads to their total elimination. In its wisdom, the General Assembly separated the two stages but made it clear that the first leads to the second. The General Assembly proceeded in that way owing to the dauntingly complex operations involved in the elimination stage. The initial step of prohibition can be taken separately from elimination.

8. It is important not to confuse prohibition with elimination. Besides measures inherent to it, elimination may include many collateral undertakings such as humanitarian, environmental, financial, scientific and technical cooperation. If the two stages were to be negotiated at the same time in a single document, the probabilities of failure would increase dramatically. Prohibition is an essential foundation for elimination. The former should not be hostage to the latter.

9. The seven essential elements of the legally binding instrument highlighted in paragraph 6 above are briefly explained below, taking, as the case may be, the achievements in legal as well as in practical terms of the treaties establishing nuclear-weapon-free zones, the first being the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), which marked its fiftieth anniversary on 14 February 2017.

**(a) Definition of what is being prohibited**

10. The Treaty of Tlatelolco contains one of the first and few definitions of nuclear weapon in an international legal instrument. That definition has not been called into question, either by any State party to the Treaty of Tlatelolco or by any State party to the Additional Protocols to the Treaty.<sup>1</sup>

11. In article 5 of the Treaty of Tlatelolco, “nuclear weapon” is defined as follows:

For the purposes of this Treaty, a nuclear weapon is any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes. An instrument that may be used for the transport or propulsion of the device is not included in this definition if it is separable from the device and not an indivisible part thereof.

**(b) Scope of the prohibition**

12. The Treaty of Tlatelolco is the first multilateral legal instrument to prohibit nuclear weapons, leading towards their total elimination.

13. Article 1 of the Treaty of Tlatelolco, regarding prohibitions and obligations, contains the following fundamental elements:

(a) Nuclear energy shall be used exclusively for peaceful purposes. This is the starting point of the Treaty of Tlatelolco;

(b) States parties to the Treaty are prohibited from the following five activities in relation to nuclear weapons: testing, use, manufacture, production, acquisition;

(c) States parties to the Treaty are prohibited from undertaking the above-mentioned five activities in relation to nuclear weapons pertaining to third States by means of receipt, storage, installation, deployment, possession;

(d) Such activities are prohibited to the States parties to the Treaty either in their territories or in the territories of third parties in any way;

(e) Prohibitions cover the actions of States parties directly or indirectly, by themselves or on behalf of anyone else.

14. Article 1 of the Treaty of Tlatelolco reads as follows:

1. The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories:

a. The testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way, and

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<sup>1</sup> China, France, the Netherlands, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States.

b. The receipt, storage, installation, deployment and any form of possession of any nuclear weapons, directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way.

2. The Contracting Parties also undertake to refrain from engaging in, encouraging or authorizing, directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon.

**(c) Clauses covering the modalities for ensuring compliance and remedies for non-compliance**

15. The United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons should include a control system to ensure compliance with obligations regarding the prohibition of nuclear weapons.

16. The control system established by the Treaty of Tlatelolco in articles 13-18 contains both subjective and objective elements. The subjective elements include the semi-annual reports whereby the Parties to the Treaty formally notify the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean that no activity prohibited by the instrument has taken place in their respective territories. The objective elements of the control system include the conclusion and implementation of safeguards agreements with the International Atomic Energy Agency (IAEA) in order to ensure that nuclear energy be used exclusively for peaceful purposes.

17. The role of IAEA in the legally binding instrument to prohibit nuclear weapons will need to be carefully studied and strengthened to ensure compliance with the prohibition of nuclear weapons.

**(d) A mechanism for deliberation and exchange of information among the contracting parties and the services necessary to its functioning**

18. The legally binding instrument to prohibit nuclear weapons could include conferences of the Parties with the support of the United Nations and IAEA. The Conferences might, as necessary, create an institution or secretariat to assist with the implementation of the treaty.

19. Article 7 of the Treaty of Tlatelolco reads as follows:

1. In order to ensure compliance with the obligations of this Treaty, the Contracting Parties hereby establish an international organization to be known as the “Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean”, hereinafter referred to as “the Agency”. Only the Contracting Parties shall be affected by its decisions.

2. The Agency shall be responsible for the holding of periodic or extraordinary consultations among Member States on matters relating to the purposes, measures and procedures set forth in this Treaty and to the supervision of compliance with the obligations arising there from.

3. The Contracting Parties agree to extend to the Agency full and prompt co-operation in accordance with the provisions of this Treaty, of any agreements they may conclude with the Agency and of any agreements the Agency may conclude with any other international organization or body.

20. Throughout the last 50 years, the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean has fulfilled the functions conferred on it by the Treaty of Tlatelolco, namely, the implementation of the control system. The Agency's secretariat organizes the sessions of the general conference, which establish procedures for the control system in order to ensure observance of the Treaty in accordance with its provisions (see art. 9, para. 2 (b)).

21. The Council of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean has to date held 306 meetings, generally every two months, to ensure compliance with the obligations under the Treaty and to receive the semi-annual communications derived from article 14 of the Treaty, which relate to the absence of activities prohibited under the Treaty; and those reports derived from article 24 with respect to agreements concluded by States parties on matters with which the Treaty is concerned.

22. The establishment of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean has been effective not only in ensuring compliance with the obligations of States parties with respect to the Treaty of Tlatelolco. It has also served as a mechanism to strengthen transparency regarding non-proliferation obligations. The institutionalization of the commitments and obligations deriving from the Treaty of Tlatelolco, through the Agency, is based on the principle that States can address security concerns and prevent possible conflicts through legal provisions.

**(e) Relationship to the United Nations, the International Atomic Energy Agency, the Treaty on the Non-Proliferation of Nuclear Weapons and the treaties establishing nuclear-weapon-free zones**

23. The conference of States parties to the legally binding instrument to prohibit nuclear weapons could be held under the auspices of the United Nations. The experience and participation of IAEA in such conferences would also be valuable, to review the implementation of the legally binding instrument.

24. Since the negotiation of a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination, is related to the provisions of article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, the review conferences of the Parties to the Treaty could include discussion on the implementation of the legally binding instrument.

**(f) Participation**

25. In its resolution [71/258](#), the General Assembly encourages all Member States to participate in the conference. In other words, the General Assembly is not excluding the participation of any State and the legally binding instrument should be open for signature to any State.

26. The General Assembly should call upon all Member States to adhere to the legally binding instrument to prohibit nuclear weapons, leading towards their total elimination.

**(g) Final clauses**

27. The legally binding instrument to prohibit nuclear weapons should include a formula that makes viable its early entry into force. This means that the instrument should be in force once it has been ratified by a specified number of States, without any distinction of categories among them. Its entry into force cannot depend on its ratification by nuclear-weapon States or by any other category of States.

28. In both domestic and international law, full compliance with obligations is mandated. Laws must be fully complied with; therefore, semi-compliance is not an option. In this regard, the legally binding instrument should not be subject to reservations.

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*Permanent Mission of  
Costa Rica  
Geneva*

REF. MCR-ONUG/2017-261  
13.17

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

Geneva, 24 May 2017

Excellency,

After the release on Monday of the first draft text of the legally binding instrument to prohibit nuclear weapons, leading toward their total elimination, I am attaching the speaking notes I delivered with the presentation of the text. I believe this would clarify some doubts delegations might have specially if they were not present in the room.

Please accept, Excellency, the assurances of my highest consideration.



Ambassador Elayne Whyte G.  
Permanent Representative of Costa Rica  
to the United Nations in Geneva  
President of the Conference

To all  
Permanent and Observer Missions  
to the United Nations in New York and Geneva

**Draft legally binding instrument to prohibit nuclear weapons, leading towards their total elimination**

**Ambassador Elayne Whyte Gomez (Costa Rica)  
President**

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

**Geneva, 22 May 2017**

In preparation for the second substantive session of the Conference, which will reconvene on June 15<sup>th</sup>, I am now releasing the draft version of the legally binding instrument that will serve as the basis of the Conferences' forthcoming deliberations.

**Overall approach in preparing the draft**

This first draft has been elaborated on the basis of the inputs provided by the States participating at the first session of the Conference which took place in March, including their statements and working papers.

At the first session of the Conference in March we had robust and constructive exchanges on the provisions of the legally binding instrument, including on its principles and objectives, preamble and core prohibitions, positive obligations, institutional arrangements and other provisions.

During the session, many common elements and aspirations emerged. The draft thus aims to synthesize the many areas where the views of States converged, and incorporated those elements which are ripe, well considered and deemed to constitute a basis for building consensus.

The goal of the Chair with this draft has been to produce a text which can bring the Conference to a constructive starting point for its negotiations in June and July, highlighting the many common elements and aspirations that have so far emerged.

At the same time, I should emphasize that the draft is not exhaustive of all the issues discussed in March. At the first session, it was apparent that further discussion was needed on a number of important issues, including among technical and legal experts. In some instances, I have set aside certain issues not fully developed for



drafting, in order to enable to Conference to continue their deliberation without prejudice to the outcome.

I have chosen this approach on building on the points of convergence, in order to preserve the constructive and collaborative spirit that we all were able to foster in March, and provide the ground for further reflecting on the more complex issues.

### **Overarching principles guiding the preparation of the draft**

The draft was prepared on the basis of several common aspirations and principles which emerged during the discussions at the first session of the Conference.

1. **Complementarity.** The first is that the instrument should strengthen and complement existing instruments and in no way undermine the nuclear non-proliferation regime, especially the Treaty on the Non-Proliferation of Nuclear Weapons.
2. **Reinforcement.** Second, the instrument should avoid any loopholes that could in any way enable any State to evade existing non-proliferation norms.
3. **Simple and non-discriminatory nature.** Third, the instrument should be simple, non-discriminatory and reflect a clear strong prohibition of nuclear weapons.
4. **A basis for the future.** Fourth, the instrument should aim at the future. In this sense, it should be flexible and designed to endure for the long-term. It should constitute a step toward nuclear disarmament and clearly identify and provide for the pathways and framework for future accession of nuclear weapon states, thus promoting the achievement and maintenance of a nuclear-weapon-free world.

### **Overview of the draft**

#### *Preamble*

The preamble of the draft Convention seeks to concisely describe the motivation for the instrument, the aspirations of its parties, and its object and purpose.

First, it bases the Convention on the deep concern over the catastrophic humanitarian consequences of the use of nuclear weapons and recognizes the suffering of the victims of the use and testing of nuclear weapons.

The preamble also bases the instrument on the principles and rules of international humanitarian law, and the conviction by the States participating in the Conference that nuclear weapons must never be used again, under any circumstances. This conviction is enshrined in a clear prohibition of nuclear weapons.

It then reflects the aspirations of the parties to advance the principles of the United Nations, including through the achievement of nuclear disarmament and the ultimate objective of general and complete disarmament.

The preamble also reflects the strong and unified desire of the States participating at the Conference to recognize, strengthen and complement the existing nuclear disarmament and non-proliferation norms.

Finally, the preamble recognizes the essential contribution of non-governmental organizations, the survivors of the atomic bombing, the ICRC and the United Nations in seeking to achieve a nuclear-weapon-free world.

#### *Prohibitions, effective legal measures, legal provisions and norms*

The core prohibitions are contained in Article 1, general obligations. Based on the inputs provided in March, these provisions largely consolidate, build upon and reinforce the prohibitions and norms contained in various instruments. As such, the meaning and scope of each of the prohibitions should be readily apparent and clearly understood by all.

Therefore, I will not conduct an exhaustive survey of these provisions and their relation to obligations in other instruments, but will rather address this when we commence our article-by-article review of the text in June.

I do wish to emphasize one point. Given the various international legal instruments that address nuclear weapons, consideration has been taken to avoid opening any loopholes or in any way contributing to the fragmentation of law and norms in the non-proliferation and disarmament regime.

#### *Strengthening and reinforcing the Nuclear Non-Proliferation Treaty*

As I have mentioned, at the March session, there was a strong sense that the instrument should reinforce and strengthen existing legal instruments, especially the Treaty on the Non-Proliferation of Nuclear Weapons and the safeguards regime maintained by the International Atomic Energy Agency.

I have sought to accomplish this in a number of ways.

First, the general obligations have been drafted so as to be fully compatible with the NPT language and provisions.

Second, the verification of the general obligations follows the same approach as several nuclear weapon free zones – States Parties would be obliged to apply the

safeguards required by the NPT. For those States Parties that are already members of the NPT, they could in fact maintain their existing safeguards agreements. As the basis for the discussions, the verification standard required in the draft is thus designed to be equal to that provided for in the NPT.

### **Framework and pathways for the irreversible and verified elimination of nuclear weapons**

In accordance with the mandate provided in resolution 71/258 and with the views expressed by the delegations in March, the instrument should constitute a basis for the future total elimination of nuclear weapons, and thus provide a framework and pathways to address the issue of future outreach to nuclear weapon states.

The draft elaborates and simultaneously provides for two pathways by which States possessing nuclear activities can join, according to the proposals presented by the delegations in March.

#### *South Africa-plus*

The first pathway builds upon the positive experience of South Africa, which had dismantled its nuclear weapon program, joined the Non Proliferation Treaty and then subsequently declared its former weapon activities. It then allowed the International Atomic Energy Agency (IAEA) to verify the dismantlement of its nuclear weapon program.

It can not be ruled out that in the future some State possessing nuclear weapons might choose to follow a similar path. Under the existing treaties, there are no legal requirements for the verification that should be pursued to give the international community the assurances that it needs to have confidence that a State has completely eliminated its nuclear weapon program before acceding to the treaty.

As was specifically proposed during the conference to draw from the South African experience, the draft includes provisions for verification of the completeness of a States inventory of nuclear material and installations, building directly from the mandate and objectives pursued by the IAEA in South Africa. As there have no doubt been important lessons learned over the last two decades, the delegations will have the opportunity to reflect on whether or not these standards and objectives can be improved. The draft includes a general provision and also I requested the Secretariat to compile in a non paper the standards and objectives of the South African experience for the delegations to study.

The draft also considers that there are three States, namely Belarus, Kazakhstan and Ukraine, which have voluntarily given up nuclear weapons pursuant to a treaty commitment. In order to avoid subjecting any State to a duplicative verification exercise, the draft mandates South Africa-method verification for those States which have possessed, manufactured or acquired nuclear weapons from the date that the Lisbon Protocol under the START I Treaty was implemented – 5 December 2001.

The provision of the so-called “South Africa-plus” pathway in no way prejudices the pursuit of agreed measures for the irreversible, verified and time-bound elimination of other nuclear weapon programs. In fact, the draft explicitly provides for a second pathway.

*Provision for the negotiation of agreed measures for the verified and time-bound elimination of nuclear weapons*

The second pathway responds to the calls expressed by most delegations for States possessing nuclear weapons to be enabled to join the instrument through a process involving the negotiation of an agreed plan for the elimination of their nuclear weapon programs.

The approach in the draft provides only for the basic requirements of a framework for this process, namely the possibility for the States parties and the non-party States to consider the effective necessary measures. As stated at the March session, such agreement could take the form of a protocol to the instrument.

This framework approach would empower the meeting of states parties with the necessary flexibility to engage with nuclear-weapon states, to consider both country-specific and universal measures for nuclear disarmament, and to adapt their working methods for any future requirements. This flexible approach has served well in other contexts such as the Convention on Conventional Weapons.

It also leaves for future negotiations all those matters which by necessity can only be agreed directly with the States possessing nuclear weapons. This includes matters like the items to be declared, provisions for on-site inspections, the establishment of necessary institutional arrangements, schedules and timeframes for elimination, compliance and enforcement, and interim measures pending the complete elimination of nuclear weapon programs.

As the circumstances for each State possessing nuclear weapons differ greatly, and we cannot anticipate at this stage at which point in the future they will be compelled to engage in a process leading to the total elimination of their nuclear weapon programs, it would be difficult and likely impossible for the Conference, in the span

of three weeks, to develop these provisions.<sup>1</sup> Rather, these matters may be best left for the meetings of states parties to discuss further and elaborate.

I believe this approach provides for the necessary flexibility to enable this instrument to constitute a credible framework for nuclear disarmament and to enable its States Parties to evolve its functions so it can endure and grow for the future.

### **Other provisions**

Before closing, I will just briefly highlight the other provisions in the draft.

It includes general provisions for positive obligations, including in the areas of victim assistance and environmental remediation.

It includes standard provisions for national implementation, international cooperation and the settlement of disputes.

As the Secretary-General of the United Nations is given the task of circulating declarations and convening the meetings of states parties, the United Nations secretariat –and by default the Office for Disarmament Affairs – would provide the institutional support for the treaty, unless the meeting of states parties decides otherwise.

In light of the principle of non-discrimination, the instrument provides for a simple mechanism for entry into force, commensurate with other recent disarmament instruments.

Finally, it includes language on withdrawal standard for other treaties dealing with weapons of mass destruction. However, in light of its basis in humanitarian law, no notice of withdrawal would be able to go into effect while a party is engaged in an international armed conflict.

### **CONCLUSION**

2017 offers a historic opportunity to secure international consensus on a robust, legally-binding instrument to prohibit nuclear weapons, leading toward their total elimination, that achieves significant gains for Humanity. By giving birth to an

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<sup>1</sup> It was noted to the Chair that the New START Treaty, which provided only for the reduction of nuclear weapon systems and not even the destruction of a single warhead, was incredibly complex. While the treaty text was a mere 17 page-document, comprised of sixteen articles, it also included: a 165-page protocol on definitions, data exchanges, and procedures for elimination, verification, dispute resolution, and consultations; a 91-page annex on inspection activities; a 68-page annex on notifications; and a 15-page annex on the exchange of telemetric information.

effective Convention, we all are recognizing the urgency that the current international climate imprints to the international community, to ensure substantive progress on priority nuclear disarmament and non-proliferation issues.

As the General Assembly has called upon States participating in the conference to make their best endeavors to conclude as soon as possible a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination, I would like to encourage delegates to review the President's first draft text from the perspective of its being a starting point, and to bring to the commencement of the June Conference your views, comments and proposals, not only on its substance but also on how the legal and technical language might be improved.

We all must have the determination that with the time available, we are committed and ready to lend our full weight to efforts to achieve a strong instrument that will attract the broadest possible international support.

Before closing, I wish to remind delegations that my team and I continue to be available for consultations in Geneva and will be available in New York very soon, as of June 7<sup>th</sup>, in order to allow delegations time to consult with their capitals and receive their instructions.

I look forward to co-operating closely with States, Civil Society and Academia as we work to bring these vital negotiations to a successful conclusion.