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Open-ended Working Group to develop proposals to take forward multilateral nuclear disarmament negotiations for the achievement and maintenance of a world without nuclear weapons

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Develop proposals to take forward multilateral nuclear disarmament negotiations for the achievement and maintenance of a world without nuclear weapons

Perceptions and views on nuclear disarmament: addressing differences and bridging gaps

Submitted by Austria

I. Introduction

1. The mandate of the Open-ended Working Group is to “develop proposals to take forward multilateral nuclear disarmament negotiations for the achievement and maintenance of a world without nuclear weapons” (...) and “to submit a report on its work, reflecting discussions held and all proposals made, to the General Assembly at its 68th session (...)”. The Open-ended Working Group thus offers a good opportunity to address a broad set of issues related to nuclear disarmament. It also fills a void given the long-lasting stalemate in the Conference on Disarmament and lack of progress in the Disarmament Commission of the United Nations, where substantive and comprehensive discussions on multilateral nuclear disarmament have not been possible for many years. In Austria’s view, the Open-ended Working Group can, thus, contribute to reinvigorating the disarmament community by providing an opportunity for all Member States of the United Nations to participate in the multilateral nuclear disarmament discourse. The Open-ended Working Group can examine and reflect on different aspects of nuclear disarmament, the state of the art, the challenges, the different approaches and concrete proposals and aim to develop concrete proposals on how to take forward multilateral nuclear disarmament negotiations.

2. Progress on nuclear disarmament has been disappointing due to the fact that there appear to be fundamentally different perceptions and divergent views with respect to several key aspects, among them:

- the extent to which nuclear disarmament and a world without nuclear weapons is a shared urgent priority for the international community;
- the quality and status of nuclear disarmament obligations and commitments;
- what actually constitutes progress on nuclear disarmament and how it should be assessed.

3. In Austria's view, the Open-ended Working Group would bring added value to the nuclear disarmament discourse, if some of these issues could be addressed in the course of its work. In this working paper, Austria provides an overview on these different perceptions and divergent views in order to contribute to and stimulate the discussion in the Open-ended Working Group and to highlight some areas where serious efforts to bridge the existing gaps are necessary.

II. Nuclear Disarmament: Priority or Distant Objective?

4. The rhetoric in public statements and international forums indicates a broadly shared view by the international community about the objective of nuclear disarmament and a world without nuclear weapons. In reality, though, there is a serious disconnect between the approach of nuclear possessor states and the way most non-nuclear weapons States (NNWS) look upon the issue of nuclear disarmament.

5. NPT nuclear weapons states and the nuclear possessor states outside of the NPT alike, have embraced the desirability of nuclear disarmament. USA and the Russian Federation, have taken bilateral steps to significantly reduce the numbers of their stockpiles and other NPT nuclear weapons States have taken unilateral steps. All these actions represent steps towards the implementation of NPT disarmament commitments and obligations. The States outside of the NPT have also made proposals and/or expressed support for nuclear disarmament. Overall, however, nuclear weapons possessor States still posit the deterrence value and continue to rely on these weapons as "ultimate guarantors of security". Modernization programs are in place and long-term investments in nuclear weapons and their infrastructure are made or foreseen in all nuclear weapons possessor States. In Asia, indications are even pointing towards an accelerating nuclear and missiles arms race.

6. It therefore appears that nuclear weapons possessor States consider nuclear disarmament and the achievement of a world without nuclear weapons, at best, a long-term objective that can be aspired to. Thus, pending the achievement of perceived global pre-conditions for nuclear disarmament, only limited disarmament steps are taken at present without, however, fundamentally reassessing the role of nuclear weapons or altering the nuclear strategic balance. At the same time, nuclear weapon possessor States focus on the prevention of the further proliferation of nuclear weapons. This is not only the clear priority, but is also presented as a necessary precondition for more substantial nuclear disarmament steps.

7. The perspective of many (if not most) NNWS towards nuclear weapons and the urgency of nuclear disarmament is quite different. Nuclear weapons and nuclear deterrence are today widely seen as a high risk approach to national and international security. Humanity escaped unharmed from the risk of extinction in the Cold War period as much by luck as by design. It is increasingly difficult to accept that the concepts of nuclear deterrence, mutually assured destruction and the logic of nuclear strategic stability have been transferred into the 21st century and that the 20 years since the end of the Cold War have not been used to reduce the role and status of nuclear weapons. This lack of adaptation to new realities was not only a missed opportunity but also a serious misjudgment. It is seen as a key driver for the proliferation, as evidenced by the situation in Asia and the

proliferation risks in the Middle East. In light of this evident link between the retention of and reliance on nuclear weapons by some and the further proliferation of nuclear weapons, the conclusion must be that nuclear disarmament and nonproliferation efforts can only be achieved together.

8. The mere existence of nuclear weapons results in a permanent risk of devastating consequences for the entire planet. Most NNWS therefore see the continued reliance on nuclear weapons and nuclear deterrence as running counter to the increasing understanding of global interconnectedness and a need and prospect for collective security among States. It is thus increasingly difficult to accept that such an existential threat to all humankind continues to be handled by a few States as a national security matter to the detriment of the security interests of the vast majority of States. This is further evidenced by the fact that well over 100 States have entered into legally binding regional arrangements outlawing nuclear weapons for the respective regions. Nuclear weapons and the universal threat they pose symbolize a global system that is widely considered unfair and the reasons given for the continued retention or the unwillingness to fundamentally address the approach to nuclear weapons are seen as either irresponsible or anachronistic or both.

9. In conclusion, there appear to be divergent views to what extent nuclear disarmament actually constitutes an urgent priority for the international community. Nuclear weapons possessor States may look upon nuclear disarmament as a long-term objective that can, at best, be approached by incremental steps in the current global environment. On the other hand, NNWS outside arrangements for “nuclear sharing” or “nuclear umbrellas” consider nuclear weapons as highly dangerous per se, their retention and reliance upon as anachronistic and disarmament an essential element to prevent the proliferation of nuclear weapons. Nuclear disarmament should thus be pursued with much more urgency and focus.

10. **Recommendation for the Open-ended Working Group:** In Austria’s view, the Open-ended Working Group should address these conceptual differences and seek ways of developing common ground. The Open-ended Working Group should consider all possibilities for underscoring the unqualified objective and urgent priority of nuclear disarmament and the achievement and maintenance of a world without nuclear weapons.

III. Nuclear disarmament: obligations and commitments

11. One of the fundamental divergences of views between nuclear weapons possessor States and NNWS relates to the quality and status of obligations and commitments for nuclear disarmament and the achievement and maintenance of a world without nuclear weapons.

12. Nuclear weapons possessor States look upon nuclear weapons primarily from a national security perspective. Decisions about nuclear weapons are, thus, considered as falling under strictly national prerogatives. NPT nuclear weapons States make a clear distinction between the non-proliferation obligations that are legally binding and operationalized in detail, including through IAEA Safeguards as well as through the involvement of the Security Council of the United Nations on the one hand, and the NPT nuclear disarmament commitments on the other hand. Article VI of the NPT remains the “only” legally binding multilateral nuclear disarmament obligation. This obligation from the Cold War period is formulated so vaguely that “the pursuit of negotiations in good faith” is largely left open for interpretation. Moreover, the link between “nuclear disarmament” and “a treaty on general and complete disarmament” can also be interpreted by some in a way that nuclear disarmament can only be achieved in a distant and future global security environment, quasi as an end point of international relations.

13. The 1996 Advisory Opinion of the International Court of Justice provided a strengthened and expanded interpretation on the obligation for nuclear disarmament under international law. It underscored that “there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament (...)”. This obligation is universal, thereby going beyond the issue of NPT universality. Nevertheless, there remains scope in the advisory opinion as regards what constitutes “pursuing nuclear disarmament negotiations in good faith” in concrete terms. While advisory opinions carry a lot of authority, they are, nevertheless, not binding on States.

14. The numerous commitments agreed to by consensus in NPT Review Conferences are considered by NPT nuclear weapons States as “non-binding” and “political”. Implementation of these commitments has therefore been selective and in part lacking. While the NPT based non-proliferation obligations have been developed to create a robust set of rules against which non-compliance can be measured effectively, the Article VI obligation has not evolved to the same degree and its implementation is “only” measured against a set of non-binding political commitments. Hence a clear distinction is made between proliferation, which is a compliance issue and nuclear disarmament, where we talk about implementation of political commitments. One could conclude that NPT nuclear weapons States have only agreed to these nuclear disarmament commitments in Review Conferences because, in their interpretation, they do not qualify as legally binding commitments.

15. There are no legally binding provisions for nuclear disarmament, equal to Article VI of the NPT for non-NPT nuclear weapons possessors. However, many declarations in support of nuclear disarmament and proposals have been made over time that demonstrate a political commitment towards this goal.

16. Among NNWS, however, the nuclear disarmament obligations and commitments under the NPT including the various outcomes of past NPT Review Conferences are seen as further development and operationalization of the Article VI obligation. They see a close conceptual connection between their agreement to be bound by the non-proliferation provisions and the implementation of the agreed outcomes. This is particularly the case with respect to the agreement for the indefinite extension of the NPT in 1995. This agreement was given with the conditionality of certain nuclear disarmament steps and measures which are seen as not, or not satisfactorily, fulfilled. There is a widespread view among NNWS, that the body of agreed nuclear disarmament undertakings and outcomes in the NPT goes well beyond “soft” or “political” declarations of intent but that they are quasi-legally binding elements of a deal that has not been honored. In consequence, the wisdom of the agreement in 1995 for the indefinite extension is now put into question by some.

17. In conclusion, there are some distinct conceptual differences about the quality and status of obligations and commitments on nuclear disarmament (within the NPT). These differences and even contradictory views have tended to be brushed over the past in consensus language that allowed both sides the leeway to stick to their respective interpretations. However, the NPT-based nuclear disarmament discourse may be reaching a phase where these contradictions can no longer be managed in this way.

18. **Recommendation for the Open-ended Working Group:** In Austria’s view, the Open-ended Working Group should address these conceptual differences about the quality and status of obligations and commitments on nuclear disarmament in an open and frank manner and explore ways on how the apparent gap in perceptions on the status of non-proliferation obligations and nuclear disarmament commitments could be reduced.

IV. What constitutes nuclear disarmament and what are the benchmarks for credible progress?

19. In nuclear disarmament discussions in the NPT context, stark differences of views are also evident between NPT nuclear weapons States and many NNWS as regards the degree to which nuclear disarmament commitments and obligations are implemented. Nuclear weapons States point to nuclear disarmament steps that they have undertaken, ranging from technical steps such as developing a glossary of nuclear terms to reductions of nuclear weapons to bilateral arms reduction agreements, as demonstration of Article VI implementation. At the same time, they are heavily criticized by NNWS for their perceived lack of progress in implementation of their commitments and obligations.

20. NPT nuclear weapons States in implementing Article VI and nuclear possessor States outside the NPT approach nuclear disarmament as a series of (more or less modest) gradual steps, as outlined section II of this working paper. These, however, would have to be done in a manner that is consistent with their view of maintaining nuclear strategic stability and continued reliance on nuclear weapons until the conditions for nuclear disarmament exist. Nuclear weapons possessor states argue that there is no contradiction between maintaining the nuclear strategic stability and their declared support for nuclear disarmament and the goal of a world without nuclear weapons. Consequently, the continued reliance on nuclear weapons in military doctrines and the maintenance, modernization of and long-term investments in nuclear weapons and the nuclear weapons infrastructure are, in their argumentation, compatible with their nuclear disarmament commitments and obligations.

21. Most NNWS, recognize that actual nuclear disarmament is technically complex and will require time and a series of interconnected steps. NNWS' interpretation of credible nuclear disarmament progress, however, would require clearly discernible changes in the policies of nuclear weapon States and a clear direction towards nuclear disarmament and a world without nuclear weapons. These changes have not happened. It is widely seen as clearly contradictory with the agreed nuclear disarmament commitments and obligations that nuclear weapons states maintain their reliance on nuclear weapons until an unspecified distant future. Many NNWS, thus, doubt that the nuclear disarmament rhetoric of nuclear weapons States is acted upon with urgency and, rather, see a systematic approach to maintain the nuclear status quo for as long as possible. A similar contradiction exists in the eyes of many NNWS with respect to the political statements in support of nuclear disarmament of some nuclear possessor States outside the NPT and their policies, doctrines and military buildup.

22. These different views and expectations about the implementation of nuclear disarmament commitments and obligations make it very difficult to reach a common understanding on the degree of progress that is being made. The 2010 NPT conclusions and recommendations for follow-on actions and the 22 nuclear disarmament actions provide a useful new tool for the NPT community to measure progress. In this context, the very significant contribution of civil society needs to be highlighted. Several detailed reports on the implementation of the Action Plan have been prepared that could be of significant help for states in assessing the implementation of the NPT disarmament commitments and obligations. In the eyes of many NNWS, key indicators for progress and a clear direction towards nuclear disarmament – for NPT and non-NPT possessor states alike – would be:

- changes in doctrines to diminish the role of nuclear weapons;
- changes with respect to operational readiness and alert status;

- decisions in nuclear weapons states with respect to budget allocation towards nuclear weapons and the nuclear weapons infrastructure and modernization of and long term investment in nuclear weapons;
- level of transparency;
- progress towards entry into force of the CTBT and
- the situation in the disarmament machinery – especially in the Conference on Disarmament.

23. In conclusion and given the above-cited differences, it is likely that there will be conflicting interpretations in the run up to and during the 2015 Review Conference in the NPT community about the level of implementation of these commitments and actions. It is therefore important to address these conceptual differences and aim to explore common ground on what constitutes credible progress on nuclear disarmament and how it can be assessed. While there are no legally binding obligations for non-NPT nuclear possessor States, it would be important to also engage with them on ways of following up on their declared support for nuclear disarmament and a world without nuclear weapons

24. **Recommendation for the Open-ended Working Group:** In Austria's view, the Open-ended Working Group should address and aim to explore common ground on how to bridge the different views and expectations on what constitutes credible progress on nuclear disarmament. It could aim to identify criteria about the concrete measures and the degree of their implementation that would constitute concrete progress and reflect, in its report, the breadth of views on this issue.

V. Conclusion

25. The multilateral nuclear disarmament and non-proliferation regime is at a crossroads. There are several drivers putting serious stress on the NPT-based edifice, which has been the framework for efforts by the international community in the past four decades to address the challenges posed by the nuclear weapons age. Universality of the NPT looks increasingly distant, efforts to control the proliferation of nuclear weapons are seriously challenged and the global aspiration of a world without nuclear weapons does not seem to be getting any closer. In addition, some of the key parameters of the nuclear age, namely that a few States only were in possession of nuclear weapons and had the required knowledge and technological capabilities, are fast losing their validity. The technological hurdle still exists but it is getting lower by the day. More and more States – and potentially non-state actors – will be in a position to de facto reach or cross the line of nuclear weapons capability. The decision to do this will increasingly become a political rather than technological one. The consequences of this trend cannot be overstated. It means an exponentially increasing risk of nuclear weapons proliferation and, consequently, the risk of their use by someone somewhere. A focus on non-proliferation alone – as important as it is – is ultimately doomed to fail. With the technological threshold getting lower and the interest in nuclear technology getting higher, the only long term approach is to build credible political and legal barriers against nuclear weapons as such.

26. Nuclear disarmament therefore needs to be pursued with a much greater sense of urgency, since there is a race against time. The global regime will either be maintained and even strengthened and the spread of nuclear weapons stopped, or the legitimacy of the NPT and the entire regime could be undermined with the potential consequence of more and more actors seeking to develop nuclear weapons.

27. To address this serious problem, selective approaches will not work in the future. Nuclear weapons and the risks they pose need to be addressed in their entirety. Avoidance

of discussion and brushing over fundamental conceptual differences is not a promising way forward. The Open-ended Working Group may serve as a forum where such open and frank deliberations can take place. The existing differences of view will not be resolved but initial steps towards building common ground could be taken.
