



# General Assembly

Distr.: General  
12 April 2016

English only

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## Open-ended Working Group taking forward multilateral nuclear disarmament negotiations<sup>1</sup>

Geneva 2016

Item 5 of the agenda

**Taking forward multilateral nuclear disarmament negotiations**

### **A legally-binding instrument that will need to be concluded to attain and maintain a world without nuclear weapons: a prohibition on nuclear weapons**

**Submitted by Mexico**

#### **I. Taking forward multilateral nuclear disarmament negotiations**

1. On 7 December, 2015, the General Assembly adopted resolution 70/33 “Taking forward multilateral nuclear disarmament negotiations.” In its first operative paragraph it reiterated that the universal objective of taking forward multilateral nuclear disarmament negotiations remains the achievement and maintenance of a world without nuclear weapons, and emphasized the importance of addressing issues related to nuclear weapons in a comprehensive, inclusive, interactive and constructive manner, for the advancement of multilateral nuclear disarmament negotiations.

2. Focusing on the substantive aspects of this operative paragraph, on one hand, the General Assembly acknowledged the need to take forward multilateral nuclear disarmament negotiations in order to eliminate nuclear weapons, as its elimination is the only way to “achieve” a world without nuclear weapons. On the other hand, it also acknowledged that negotiations should take place in order to “maintain” that status once it is achieved.

3. The current nuclear non-proliferation and disarmament regime already have elements in place that contributes to this end. Unilateral, bilateral, regional and multilateral measures have been taken towards the achievement of our common objective. Despite the contributions made by each of these elements, further actions must be taken and multilateral nuclear disarmament negotiations on a legally-binding instrument or set of instruments that will strengthen and complete the global nuclear regime must start at an early date.

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<sup>1</sup> Established pursuant to resolution 70/33 of the General Assembly of the United Nations.



4. Many discussions have been held and many working papers have been circulated in different disarmament *fora* trying to identify the elements that are needed in order to eliminate nuclear weapons in a transparent, verifiable and irreversible manner, as well as those elements that are needed in order to maintain a world free of such weapons of mass destruction. At the same time, discussions and documents have also tried to explore the different nuclear disarmament approaches or pathways.

5. Notwithstanding the complexity of both substance and procedure that the two components of nuclear disarmament (achievement and maintenance of a world without nuclear weapons) entail, various fundamental elements to complete a nuclear regime have been identified. As an example, a list of elements to be considered in nuclear disarmament negotiations were enlisted in the report of the 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” established pursuant to resolution 67/56 [A/68/514].

6. Building upon the efforts carried out until now and in order to contribute substantially to taking forward multilateral nuclear disarmament negotiations, resolution 70/33 established an open-ended working group to substantively address concrete effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons (operative paragraph 2), as well as to substantively address recommendations on other measures that could contribute to taking forward multilateral nuclear disarmament negotiations... (operative paragraph 3).

7. The Open-ended working group established pursuant to resolution 70/33 is an opportunity to substantively address fundamental aspects that could contribute to achieve and maintain a world without nuclear weapons. In this regard, this working paper is focused on the mandate contained in operative paragraph 2 of resolution 70/33.

8. The objective of this working paper is to underline the contributions that a prohibition on nuclear weapons would have on nuclear disarmament, as well as identifying minimum elements that this prohibition should contain, regardless of the approach or pathway followed during its negotiation.

## **II. Debate on approaches or pathways: a necessity or a distraction to taking forward multilateral nuclear disarmament negotiations?**

9. In order to take forward multilateral nuclear disarmament negotiations it is fundamental to substantively address concrete effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons.

10. The identification of elements to achieve and maintain a world without nuclear weapons that must be addressed through multilateral legally-binding instrument or set of instruments is fundamental in order to take forward multilateral nuclear disarmament negotiation of such instrument or set of instruments. The utility of such multilateral instrument or set of instruments can be assessed only by its contribution to the regime, in other words, according to the element or elements contained in it.

11. Therefore, a legally-binding instrument addressing one, various or all the elements needed to achieve and maintain a world without nuclear weapons represents in itself a contribution to the nuclear disarmament regime and plays a specific role in it, as defined by the element(s) that it addresses. In this context, a legally-binding instrument will contribute to the achievement of a world without nuclear weapons, or to its maintenance, or to both.

12. The discussions on pathways or approaches have demonstrated that there is more than one way in which nuclear disarmament can be achieved. It has also showed that some of these pathways are not mutually exclusive and could make different contributions to nuclear disarmament. By doing so, exchanges of points of views on pathways or approaches have already made a substantive contribution to the discussions on how to achieve nuclear disarmament.

13. Unfortunately, these discussions are being utilized by some to delay the advancement on nuclear disarmament, or to try to impose an approach or pathway that essentially conditions nuclear disarmament. Furthermore, they have being used to take hostage nuclear disarmament negotiations by also conditioning the beginning of negotiations to a certain pathway (elements, sequence and pace).

14. Ultimately, as long as the objective of a legally-binding instrument is to address an element or group of elements that will contribute to nuclear disarmament, the negotiation of such an instrument should not be conditioned to a certain pathway. Pathways should contribute to give options to find solutions to disarmament negotiations, not to be an obstacle to it.

15. Because of the humanitarian consequences of a single nuclear weapon detonation, disarmament negotiations cannot afford to wait any longer. The beginning of negotiations on nuclear disarmament should be urged and the utility of a legally-binding instrument be considered according to the only objective criteria of assessment: the element or elements that it includes (its scope). In short, the negotiation of a multilateral legally-binding instrument that could make a contribution to nuclear disarmament should therefore not be conditioned by false debates or any other considerations, as nuclear weapons must not be used again under any circumstance.

16. It is therefore imperative that the international community takes action on the evident and urgent need to negotiate such instrument(s) instead of engaging on endless and repetitive discussions on how to achieve nuclear disarmament.

### **III. A prohibition on nuclear weapons**

17. As history has taught us, a key element for the elimination of scourges created by humanity has been their prohibition.

18. In this context, a global prohibition on nuclear weapons is a fundamental element to complete the nuclear non-proliferation and disarmament regime is.

19. A prohibition on nuclear weapons would have a tremendous impact to the achievement of a world free of nuclear weapons, among others, by:

- (a) Serving as a catalyst for the elimination of nuclear weapons.
- (b) Contributing to the strength of the nuclear existing non-proliferation and disarmament regime towards the elimination of nuclear weapons.
- (c) Contributing to the understanding that the existence of nuclear weapons is unacceptable by establishing a global norm that will stigmatize such weapons discouraging horizontal and vertical proliferation.
- (d) Creating incentives toward its elimination by encouraging nuclear armed states and those under the extended nuclear deterrence to stop relying on the existence of this type of weapons of mass destruction.

20. Furthermore, once achieved a world without nuclear weapons, a prohibition would be indispensable to maintain that status. Therefore, a legally-binding instrument prohibiting

nuclear weapons, irrespective of the pathway or approach followed through its negotiation, contributes to both of the components of nuclear disarmament.

#### **IV. Elements of a prohibition on nuclear weapons**

21. Experience has shown that the utility of the prohibition on a particular type of weapon relies on its scope. In this regard, discussions at the Open-ended working group established pursuant to resolution 70/33, held under operative paragraph 2 could explore the different components that a prohibition on nuclear weapons should include.

22. In order to contribute to such a discussion the following list presents some of the components that should be considered throughout the negotiations of a legally-binding instrument prohibiting nuclear weapons:

- (a) Prohibition on possession of nuclear weapons.
- (b) Prohibition on acquisition of nuclear weapons.
- (c) Prohibition on stockpiling of nuclear weapons.
- (d) Prohibition on development of nuclear weapons.
- (e) Prohibition on transfer of nuclear weapons.
- (f) Prohibition on stationing and deployment.
- (g) Prohibition on assistance, in any way, of anyone to engage in any activity prohibited by the legally-binding instrument.
- (h) Prohibition on encouragement or inducement, in any way, of anyone to engage in any activity prohibited by the legally-binding instrument.

23. Aspects related to the obligations should also be addressed throughout the negotiating process of such an instrument.

#### **V. Recommendations**

24. Regarding concrete effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons, the following recommendations are presented:

- (a) Multilateral nuclear disarmament negotiations on a legally-binding instrument or set of instruments that will strengthen and complete the global nuclear regime must start at an early date.
- (b) The identification of elements to achieve and maintain a world without nuclear weapons that must be addressed through multilateral legally-binding instrument or set of instruments is fundamental in order to take forward multilateral nuclear disarmament negotiation of such instrument or set of instruments. The utility of such multilateral instrument or set of instruments could be assessed only by its contribution to the regime, in other words, according to the element or elements contained in it.
- (c) As long as the objective of a legally-binding instrument is to address an element or group of elements that will contribute to nuclear disarmament, the negotiation of this instrument should not be conditioned to a certain pathway or any other consideration.
- (d) A multilateral legally-binding instrument to prohibit nuclear weapons could contribute to the achievement and maintenance of a world without nuclear weapons.

(e) Discussions at the Open-ended working group established pursuant to resolution 70/33, held under operative paragraph 2, could explore the different components that a prohibition on nuclear weapons should include.

(f) A prohibition on nuclear weapons is not an end in itself, additional or complementary measures might be required once such prohibition is in place.

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