



*Permanent Mission of
Costa Rica
Geneva*

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

Geneva, 22 May 2017

Excellency,

I would like to express my appreciation once again, for the constructive discussions we had last March at the first session of the United Nations Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons, Leading Toward their Total Elimination, convened pursuant to General Assembly resolution A/RES/71/258, as well as for the supportive words offered by delegations during the briefing in Geneva on April 27, 2017.


In my capacity as the President of the Conference, I am attaching herein the first draft text of the legally binding instrument to prohibit nuclear weapons, leading toward their total elimination.

Let me reiterate that I intend to be available for informal consultations in New York City as of June 7th.

I look forward to the resuming of the negotiations next June 15th in New York, and hope that in the midst of international challenging dynamics, we work together, with a sense of urgency toward a successful Conference that will conclude by agreeing on a legally binding instrument prohibiting nuclear weapons.

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

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

22 May 2017

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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.

Non-paper by the President

Indicative list of objectives of the verification of the completeness of its inventory of nuclear material and nuclear installations in States Parties that have manufactured, possessed or otherwise acquired nuclear weapons or other nuclear explosive devices after 5 December 2001

During the first session of the Conference, a number discussed the option of providing for the possibility of providing a pathway, among others, for States to eliminate their nuclear weapon programme and to subsequently join the instrument, subject to accepting verification of the dismantlement of their nuclear weapon programme. Participants at the first session referred to this option as "South Africa-plus".

In connection with the disclosure by South Africa of its former nuclear weapon programme, the General Conference of the International Atomic Energy Agency (IAEA) requested the Director General to verify the completeness of that country's inventory of nuclear material and nuclear installations (GC(XXXV)/RES/567 of 5 September 1991). In its report GC(XXXVII)/1075 on the Denuclearization of Africa, the IAEA set forth the objectives of its assessment of the status of that country's former nuclear weapons programme.

It is suggested that a number of those objectives could form the basis for those required for the purpose of verification of the completeness of its inventory of nuclear material and nuclear installations in States Parties that have manufactured, possessed or otherwise acquired nuclear weapons or other nuclear explosive devices after 5 December 2001, and included as a paragraph in Article 4 of the draft Convention as follows:

The objectives of the verification described in this Article are to:

- (a) Provide assurance that all nuclear material used in a nuclear weapon programme has been returned to peaceful use and placed under International Atomic Energy Agency safeguards;
- (b) Assess that all non-nuclear weapon-specific components of nuclear weapons or other nuclear explosive devices have been destroyed, that all laboratory and engineering facilities involved in a nuclear weapon programme have been fully decommissioned and abandoned or converted to peaceful use, and that all nuclear weapon-specific equipment has been destroyed and that all other equipment has been converted to peaceful use;
- (c) Obtain information regarding the dismantling programme, the destruction of design and manufacturing information, including drawings, and the philosophy followed in the destruction of nuclear weapons or other nuclear explosive devices;
- (d) Assess the completeness and correctness of the information provided by a State Party with respect to the timing and scope of its nuclear weapon programme and the development, manufacture and subsequent dismantlement of the nuclear weapons;
- (e) Visit facilities previously involved in or associated with a nuclear weapons programme and to confirm they are no longer being used for such purposes.

