



**Open – Ended Working Group (OEWG) on Taking Forward  
Multilateral Nuclear Disarmament Negotiations  
Statement by Sri Lanka  
11<sup>th</sup> May 2016**

Under – Secretary General and High Representative for Disarmament Affairs,  
Mr. Chairman,  
Distinguish delegates,

We join others in congratulating you and your team for the manner in which this meeting is being organized. I also wish to thank Dr. Nick Ritchie for his insightful presentation this morning.

Mr. Chairman,

We note the points made in the working papers submitted to this Group that ‘nuclear weapons are not illegal *as per se*,’ and that the UN Charter has not excluded the possibility of using nuclear weapons in self – defense. Further, it is also cited that the 1996 ICJ Advisory opinion or the international humanitarian law does not make explicit references that nuclear weapons are illegal. However, a careful read of the ICJ Advisory Opinion would make it clear that it does not provide a blanket authorization to continue to rely on nuclear weapons either. It only states that “*in view of the current state of international law, and of the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake*”<sup>1</sup>, establishing the fact that there is a lacuna in the international law with regard to nuclear weapons. The ICJ Advisory Opinion further highlights that there also 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.

There is concrete evidence on the unprecedented destruction nuclear weapons could bring. Further, the injurious nature of the harm caused not only to the humans but also to the environment, further proves that the use of nuclear weapons violates the cardinal principles of IHL - the principles of distinction, proportionality, protection of natural environment and prohibition of use of weapons that cause unnecessary suffering. Thus the existing lacuna in international law for not explicitly prohibiting nuclear weapons should not be taken as a cover to legitimize nuclear weapons.

---

<sup>1</sup> <http://www.icj-cij.org/docket/index.php?sum=498&p1=3&p2=4&case=95&p3=5>

Instead we should take it as a catalyst to work collectively in order to close the gaps and strengthen the international law. By agreeing on a legally binding instrument, we could avoid the ambiguity surrounding whether nuclear weapons are legal or illegal.

Mr. Chairman,

While no visible progress has been achieved with regard to the implementation of the NPT obligations as well as other commitments agreed upon under its framework, including to reduce the reliance on nuclear weapons for security, the Non - nuclear Weapon States have been waiting for long, with the hope that these commitments would be respected by the Nuclear Weapon States and their alliances. However, indefinite delays in taking tangible action leads to increasing risks associated with the existence and possible use of these weapons of mass destruction. One also cannot rule out the threat emanating from possible access to and use of nuclear weapons by non -state actors and terrorist entities. As it was mentioned to this Group, there were several occasions where use of nuclear weapons and a catastrophe happening has being narrowly averted. Therefore, such uncertainties and eminent risks associated with the existence and use of nuclear weapons give a clear sense of urgency to make collective efforts towards the total elimination of nuclear weapons at the earliest.

We note that there is no disagreement among States - both nuclear possessing and non - nuclear weapon States alike, on their desire to work towards the ambitious goal of, 'a world without nuclear weapons'. Then the question that remains unresolved is, *when* and *how* to reach this goal.

In order to realize the ultimate objective within a specified time period, we need to adopt the most effective and efficient approach. A 'step -by -step' approach with an undefined 'final stage' tends to lose the momentum, in achieving the common goal. Any undue delays in taking proactive actions or having to wait until a minimum threshold point is fulfilled by all nuclear possessing States, compromises the rights of States who are not relying on nuclear weapons for their security, and are being subjected to unfair risk of nuclear weapon detonations, accidental or intentional. When exercising the right to self -defense, we encourage all nuclear weapon possessing States to respect the rights and legitimate concerns of the non -nuclear weapon States.

Finally Mr. Chairman,

We have carefully listened to the arguments made within this Group and note that there is a clear desire to move towards negotiating a legally binding instrument delegitimizing nuclear weapons. Sri Lanka supports the call for early commencement of the negotiation of a comprehensive legally binding international instrument, to prohibit the use, possession, as well as production and transfer of nuclear weapons, within a time - bound framework, in order to achieve the common goal of a world free of nuclear weapons. We also urge convening of the Fourth Special Session on Disarmament (SSOD IV), at the earliest, with a particular focus on this issue.

We recognize the important contributions by the civil society and NGOs in realizing possible pathways, in particular to have a comprehensive legal regime.

Sri Lanka also hopes that the OEWG would be able to submit recommendations that would pave the way for commencing an inclusive negotiation of an international legally binding instrument.

Thank you.