Second Session of the OEWG on Taking Forward Multilateral Nuclear Disarmament Negotiations

Statement by Miss Shorna-Kay Richards, Deputy Permanent Representative of Jamaica to the United Nations
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PANEL IV

- Mr. Chairman, in keeping with the mandate of this OEWG, in particular OP2 of Resolution 70/33, you have logically structured our work yesterday and today to discuss the essential elements that could form part of effective legal measures, legal provisions and norms that will be need to be concluded to attain and maintain a world without nuclear weapons.

- In so doing you asked us to focus our exchange of views on considering two pertinent questions, with the aim of clarifying our understanding and proposals, as well as building a common understanding of the elements, to advance the work of this OEWG in fulfillment of its clear and unequivocal mandate, as Mexico reminded us yesterday.

- The two guiding questions are quite clear: the first – what elements should be included in an instrument or a set of instrument on nuclear disarmament? And the second, what lessons could be drawn from other disarmament conventions on elements of an instrument or a set of instruments on nuclear disarmament.

- Mr. Chairman, in addition to these guiding questions you have prepared us well to engage substantively, meaningfully and coherently by providing a basis for our discussion, including through Annex 1 of your Synthesis Paper on some possible elements already identified, the expert presentation by Dr. Casey-Maslen. In addition, we have benefitted from the rich submission of working papers from Member States and civil society on this topic.
• It is therefore disheartening that a number of delegations have chosen not to engage in this critical stage of the work of the OEWG in a substantive manner but rather to focus their interventions on what could be best described as a confusing and circuitous defence of the status quo in the nuclear disarmament pillar. We hope this will not be the case today, as sadly their interventions demonstrate why we can easily become pessimistic about the prospects of escaping the seventy-year addiction to nuclear strategy, armaments and institutions. However, I believe, we can draw optimism from President Obama’s celebrated and often quoted 2009 Prague Speech when he said and I quote “But now we, too, must ignore the voices who tell us that the world cannot change. We have to insist, “Yes, we can.”

• Mr. Chairman, notwithstanding the attempts to distract or divert the attention away from our core consideration yesterday, we were able to hear valuable interventions putting forwarding the elements that should be included in an instrument or a set of instruments on nuclear disarmament, as well as to clarify understanding about some of these elements.

• We were particularly pleased by the very insightful exchange of views on the elements that should be included in a treaty banning nuclear weapons, as well as lessons that could be drawn from other disarmament instruments for such elements. Ecuador’s elaboration of what each element would include was quite useful. For our part, we welcomed the opportunity to contribute to this exchange of views on and the building of a common understanding of elements that could be included in a legally-binding instrument prohibiting nuclear weapons.

• Today, my delegation wishes to contribute further to the consideration of these elements. Yesterday, in our intervention we spoke mainly about elements concerning the goal and scope of a ban treaty. Today, we would address elements relating to principles and definition of terms of a ban treaty.
Before I speak to these elements, allow me to quickly recap in summary form what we believe would be object and purpose as well as scope of ban treaty, as there were some lingering questions yesterday, particularly in relation to scope.

In terms of object and purpose the ban treaty would be to indiscriminately and unconditionally prohibit the possession and use of nuclear weapons.

In terms of scope, Jamaica is advocating a broad scope for a legally-binding instrument on a global prohibition on nuclear weapons. In this connection, the elements of such a comprehensive ban could be drawn from the nuclear weapon-free zone treaties and the Biological and Chemical Weapons Convention. The elements that should be included in the scope of this comprehensive ban are: Prohibition on use, possession acquisition, stockpiling, development and testing of nuclear weapons, transfer, stationing and deployment of nuclear weapon, assistance to in the commission of prohibited acts, encouragement or inducement to engage in prohibited acts, including financing.

Turing to the contribution we wish to make today, the first is on elements relating to the principles of a legally-binding instrument prohibiting nuclear weapons. In this connection, we find the suggestions made in working paper submitted by Article 36 and the Women’ International League for Peace and Freedom to be a good starting point. As noted in the paper, developing the principles we can draw upon the UN General Assembly resolution that led to negotiations of the NPT and the ban treaty could therefore be based on principles such as:

- establishing a clear legal standard to prohibit nuclear weapons based on their unacceptable consequences, in the same way as the other weapons of mass destruction have been prohibited through specific instruments;

- recognising the value of action taken amongst committed States in the short term, even without the participation of the nuclear-armed States;
- building on the various norms that exist within the nuclear weapon free zone treaties to prohibit and promote the elimination of nuclear weapons;

- being non-discriminatory and not recognizing any distinction amongst its parties;

- supplementing existing legal instruments without resulting in a situation where States, through participating in a ban treaty, are subject to less stringent obligations than the NPT;

- closing loopholes in the existing nuclear regime that permit States to engage in nuclear weapon activities or to otherwise claim benefit from the continued existence of nuclear weapons; and

- aligning non-proliferation policies with disarmament objectives without prejudice to the integrity of overall objectives of the nuclear non-proliferation regime.

The second set of elements we would like to discuss relates to the definition/use of terms. In this connection, we found the presentation by Dr. Casey-Maslen to be very insightful, particular his point about the importance of definitions in any viable legal instrument. Indeed, clarity about what is being prohibited – items, activities and facilities, in what way, is essential.

While we understand the role of constructive ambiguity in any political process as Sweden noted yesterday, given that a main goal of a legally-binding instrument prohibiting nuclear weapons is to address the ambiguity in nuclear governance, an important element in such a treaty would be definition/use of terms. Indeed, Dr. Casey-Maslen put forward some of the key terms that we would on which we would need to have clarify. Clearly, we will need
more time to explore some of the terms and, as it often noted, in a treaty-making process definitions often perform a great deal of the substantive work of the document.

- While we will need much more time to explore the elements about definition and use of terms, as an preliminary view/contribution on this aspect, we note that for the terminology and the definition of nuclear weapons that can be used in a ban treaty, there are two main variations in multilateral treaties: the first variation is found in the NPT and the CTBT; and the second variation is found in the regional nuclear-weapon-free zone treaties. The NPT and the CTBT use the terminology of nuclear weapons or any other nuclear explosive devices, thereby covering both weaponised and non-weaponised nuclear explosive devices.

- We note that these treaties do not provide further definitions of these terms. The nuclear-weapon-free zone treaties choose a different approach. For example, the Treaty of Tlatelolco uses the more simple term nuclear explosive device and defines it as any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used.

- The term includes such a weapon or device in unassembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it. We note that this has been reused in all other regional nuclear–weapon-free zones.

- Sometimes, these definitions are explicit: the Chemical Weapons Convention’s article II, for example, contains fourteen frequently-consulted definitions that establish the scope and content of the obligations.

- Mr. Chairman, I end this intervention by responding to the continued pronouncement that the goal of prohibiting nuclear weapons, which is as old as nuclear devices themselves, is hopelessly idealistic or utopian, unfit for the deliberations of serious people and powerful countries. Our question is: when will it become clear that the pursuit of the humanitarian
initiative and very establishment of this OEWG and its deliberations should lay to rest this dismissiveness posture?

- On the question of keeping the status quo which is deemed to be the realistic in interest of security and stability, we are being asked to suspend our disbelief that a heavily armed world can perpetually escape the specter of the use of nuclear weapons, by hostile forces or terrorists, by design, accident, or miscalculation. Do we really imagine that the world’s current course will continue to escape forever a nuclear catastrophe? I believe that this is what wildfire has aptly called “magical realism”.

- On the question of pace and accusations that this OEWG is seeking to fast–forward nuclear disarmament efforts, it is important to worth repeating, as South Africa did this morning, that the United Nations General Assembly devoted its very first resolution to the question of abolishing nuclear weapons, unanimously establishing an Atomic Energy Commission on January 24, 1946, and referring to it the urgent mission of developing specific proposals “for the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction,” and “for effective safeguards by way of inspection and other means to protect complying States against the hazards of violations and evasions.” That was 70 years ago!

Thank you.