OEWG, Cluster IV

Informal document by the Facilitator of Cluster IV in preparation for the Cluster IV discussion on 23 August 2013

Against the background of the existing international framework of legal norms relating or relevant to nuclear weapons, the questions posed under cluster IV to the delegations were:

1) Which legal norms are essential for the achievement and maintenance of a world free of nuclear weapons?
2) Which other legal norms would be useful for this purpose?

On 20th August 2013, delegations in the OEWG considered - in order to fill the gaps and remove the discriminatory nature of the current legal framework and in order to eliminate nuclear weapons – a multilateral legal norm (or several norms), complementary to existing norms, to universally prohibit:
- development (including modernisation) of nuclear weapons
- testing in all its forms of nuclear weapons
- production of nuclear weapons
- production of or use of existing fissile material for nuclear weapons
- possession and stockpiling of nuclear weapons
- transfer of nuclear weapons
- use and threat of use of nuclear weapons.

On Friday, 23rd August 2013, under cluster IV, the two questions on the necessity of legal norms will continue to be addressed for the following areas:

- concrete disarmament measures (dismantling, destruction, irrevocable elimination of nuclear weapons)
- verification of the complete and irrevocable elimination of nuclear weapons
- verification of the peaceful nature of nuclear activities (verification of non-proliferation obligations)
- legal norms providing a supportive environment for the achievement and maintenance of a world free of nuclear weapons:
  - regional or single state Nuclear Weapon Free Zones, including a zone free from nuclear weapons and other weapons of mass destruction in the Middle East, and related national legislation;
  - security assurances;
  - nuclear security related norms (nuclear terrorism convention, convention on the physical protection of nuclear material including its amendment, UN Security Council Resolution 1540 (2004));
  - creating a crime of use or threat of use of nuclear weapons under international criminal law;
  - programmatic, declaratory norm reiterating the goal and unequivocal undertaking to a nuclear weapon free world within a given time-frame and identifying the essential elements to achieve this goal.

Additional questions that should be addressed:

- Which of these norms need to be cast in a multilateral conventional legal framework, which can be cast in a different form of international law like a UN resolution (e.g. UN Security Council, UN General Assembly at level of Heads of State or Government)?
- Would a study of developments in other areas of international law (human rights, environment, consequences of the establishment of the International Criminal Court,
evolution of the law of internal armed conflict) that are of relevance to the achievement of a world free from nuclear weapons be useful?

Questions and other issues raised that are of cross-cutting nature and should be addressed in different sessions of the OEWG:

- What is the timeframe for establishing the legal norms for the elimination of nuclear weapons?
- Do all States need to be involved in all aspects/legal norms?
- What is the best sequencing of the implementation of individual elements in the framework of legal norms?