Mines Action Canada Positive Obligations Statement -- Long Version

Thank you madam President. We are encouraged by the draft text’s inclusion of positive obligations and by the depth of debate on this topic.

With regards to assistance to affected individuals it is important that this treaty furthers existing norms and obligations and does not undermine them. There is no reason that victims of nuclear weapons use or testing should have fewer rights or less access to services than victims of other indiscriminate weapons. For that reason, we support Switzerland’s proposal about adding guidance for the implementation of victim assistance to the article.

It is important to note that assistance to victims is seen as the responsibility of all states not just those in “a position to do so” so we support removing that qualifier from Article 6(1) as suggested by many states.

Remember this international legal agreement does not create any new victims – states have existing obligations to those citizens. It does though formalize the need and right for international assistance and experience with other treaties has shown that victim assistance provisions can help states better organize their activities to be more effective and efficient. By requiring data collection, as well as national plans and policies, victim assistance provisions facilitate requests for assistance internationally and ensure that services are provided effectively allowing states to meet their existing obligations to their citizens.

Turning now to Article 6(2). While the draft treaty text references environmental remediation, it merely establishes a right to seek and receive assistance. The language should be amended to make clear that states parties have an obligation to take necessary and appropriate measures to ensure remediation of contaminated areas under their jurisdiction or control.

To promote the effective implementation of this obligation, the treaty should also require specific remediation measures, such as assessment and identification of contaminated areas, removal or containment of contaminated materials, and risk reduction education. These proposed amendments to draft Article 6 draw heavily from precedent in past disarmament treaties.

Primary responsibility for environmental remediation, like victim assistance, should rest with affected states, which are best situated to coordinate implementation in their sovereign territory. But international assistance would be available and Article 6 could also include language strongly encouraging states that have used and tested nuclear weapons to provide remediation assistance to affected states.

A separate article requiring all states parties to provide international cooperation and assistance would help affected states parties meet their victim assistance and environmental remediation obligations and ensure they do not bear an undue burden. None of these proposed changes to the draft treaty text would preclude affected states from seeking redress through peaceful means from states that have used or tested nuclear weapons.

Through the implementation of these strong provisions on positive obligations, the convention will contribute to the sustainable development goals and the realization of a number of other international
agreements and goals. Strong provisions regarding positive obligations are the duty of all of humanity not just specific states.

There is nothing in these provisions, even amended as suggested, that prevents an affected state from seeking redress, through other peaceful means, from user and tester states. I encourage states to review NGO working papers 14, 24, 32 and 33. Thank you.