United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination, 27-31 March 2017

Statement by
H.E. Dr. Rohan Perera, Ambassador and Permanent Representative of Sri Lanka to the United Nations

*Item 8 (b). General exchange of views: general exchange of views on all matters*

*Topic 1. Principles and objectives and preambular elements*

Madam President,

First of all, my delegation wishes to congratulate you on the assumption of the presidency of this important conference. I am certain that under your able guidance, we will have fruitful deliberations.

Madame President,

The threat to humanity posed by the existence of nuclear weapons and the catastrophic consequences of the detonation of any nuclear weapon are the grim reality we face today. We strongly believe that the solution to counter the challenge of nuclear weapons lies within multilateralism, in the collective will of the Member States.

Therefore, a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination, which builds on existing normative frameworks in the field of disarmament, such as the Non-Proliferation Treaty (NPT), the Comprehensive Nuclear-Test-Ban Treaty (CTBT), the Biological Weapons Convention (BWC), and the Chemical Weapons Convention (CWC), would be a giant step forward in the process of nuclear disarmament. Indeed, Article VI of the NPT envisages further effective measures to attain the goal of disarmament.

In the light of this, we welcome the convening of this Conference, as recommended by the Open-ended Working Group, taking forward multilateral nuclear disarmament negotiations, to negotiate and conclude such an instrument. However, it would be imperative for all Member States to negotiate in good faith if we are to realize such a legally binding instrument that would create a world free of nuclear weapons. Its significance lies in the fact that it marks the commencement of the first multilateral negotiations on nuclear weapons since the CTBT.

Madam President,
The principal objective of a legally binding instrument to prohibit nuclear weapons must be to avert the humanitarian consequences and suffering caused by the detonation of nuclear weapons, which are inhumane and indiscriminate by nature.

The impact of nuclear weapon detonation would be felt well beyond national borders, and could have regional as well as global consequences. The destruction, death and displacement caused by such a detonation would be unimaginable, as Albert Einstein described, "a drift toward unparalleled catastrophe."

No country or international organization would be able to address the immediate humanitarian emergency that would be created by a nuclear detonation. In short, mankind is incapable of handling the dire humanitarian consequences of resort to nuclear weapons. It would damage the human health and well-being, environment, climate, and hinder sustainable development, threatening the very existence of mankind.

We must not forget that the nuclear weapon explosions and nuclear testing have caused inconceivable and indiscriminate damage to generations of people. For example, radioactive contamination, a result of nuclear explosions and testing have disproportionately affected innocent women and children in many parts of the world. They also contaminate water resources and food, thus making a great impact on human health, not to mention the environment.

The risk of these catastrophic consequences will remain as long as nuclear weapons exist. The risks of accidental, mistaken, unauthorized or intentional use of nuclear weapons could be due to many reasons inter alia the vulnerability of nuclear command and control, technical failures, human errors or cyber-attacks. The nuclear accident at the Chernobyl facility is a stark reminder of the grave risk that is associated with nuclear power.

Further, the danger of nuclear material falling into terrorist hands and its unthinkable consequences have added a further dangerous dimension to the threat posed by nuclear weapons, in a world where established states are increasingly being destabilized. It may be noted that the International Convention for the Suppression of Acts of Nuclear Terrorism of 2005 provides a useful legal framework to deal with this issue.

Therefore, it is our view that total elimination of nuclear weapons would be the only absolute guarantee against the use or threat of use of nuclear weapons.

Madam President, I believe that the rationale for prohibition of nuclear weapons is clearly manifested in the humanitarian consequences and the risks of nuclear weapons, which I have just set out.

Madam President,

We are of the view that a legally binding instrument to prohibit nuclear weapons must essentially be premised in well-established principles of International Law reflected in the
corpus of both Treaty and Customary law and in particular on the cardinal principles in the fabric of International Humanitarian Law. All rules of International Humanitarian Law need to apply fully to nuclear weapons as they seek to negate the very humanitarian concerns, which underlie the structure of IHL. In this sense, the use or threat of nuclear weapons are a violation of international law, and therefore illegal.

We fully subscribe to the notion of illegality of nuclear weapons in any circumstances, which was so clearly elucidated by the late Judge C.G. Weeramantry of Sri Lanka, in his dissenting opinion in the well-known ‘1996 ICJ advisory opinion the Legality of the Threat or Use of Nuclear Weapons.’

Judge Weeramantry said, and I quote, “My considered opinion is that the use or threat of use of nuclear weapons is illegal in any circumstances whatsoever. It violates the fundamental principles of international law, and represents the very negation of the humanitarian concerns which underlie the structure of humanitarian law. It contravenes the fundamental principle of the dignity and worth of the human person on which all law depends. It endangers the human environment in a manner which threatens the entirety of life on the planet.”

This statement captures the essence of the entire rationale behind the need for a legal instrument to prohibit nuclear weapons.

We believe that the notion of illegality of the threat or use of nuclear weapons in any circumstances could be the key underlying principle that could drive a legally binding instrument to prohibit nuclear weapons.

Fundamental principles of International Humanitarian Law such as the rule prohibiting attacks directed at civilians or civilian objects, and the rule prohibiting indiscriminate attacks, which are covered by the Principle of Distinction, could address the inhumane and indiscriminate nature of nuclear weapons.

The Principle of Proportionality, which prescribes that response must be proportionate to the threat, the rule on the protection of the natural environment, and the rule that no weapons, projectiles and materials and methods of warfare of a nature that cause superfluous injury or unnecessary suffering, are some of the key legal principles that could be employed to strengthen a legally binding instrument.

Madam President,

Sri Lanka is committed to the elimination of the threat posed by nuclear weapons. We will make all possible endeavours to make nuclear disarmament realizable and to bring peaceful uses of nuclear technology within reach. We look forward to a fruitful and constructive engagement with all delegations during the forthcoming deliberations.

Thank you.