

IPB Side event – June 28 2017

*How to find common ground for the ban treaty and how can civil society and peace movements contribute*

Speech by Sergio Duarte

I am grateful to IPB for this opportunity to participate in this discussion on the current negotiation of the Treaty on the Prohibition of Nuclear Weapons. I was asked to present a global view on the process and compare it with other disarmament processes. Given the constraints of time, let me make some quick comments on the results so far of the current negotiation process. There seems to be considerable convergence of views on many aspects of the future instrument.

I think it is fair to say that overall the conduct of business by President Elayne Whyte-Gómez has been quite satisfactory. The debate over the past week has been intense and constructive. The resulting second draft circulated yesterday seems to reflect accurately most of the proposals and observations made. I would make the following general remarks on the new draft:

- The change of the order of the first few paragraphs of the Preamble gave prominence to the “elimination” of nuclear weapons and to the risks and consequences resulting from their existence and use. In mentioning the ethical imperative of nuclear disarmament, it quotes former UNSG Ban Ki-Moon about the “global public good” and adequately related it to “national and collective security interests”. All States are entitled to security, not just those that possess or are protected by nuclear weapons.
- Stress was given to the suffering and harm resulting from the use and to the impact of tests (nuclear activities) on indigenous peoples;
- The need to comply with the principles and rules of IHL is reaffirmed;
- Mentions the principles of Charter of the UN regarding relations among States and recalls Resolution no. 1 of 1946;
- Expresses concern about the slow pace of nuclear disarmament and the importance of a legally binding prohibition, as well as the need to achieve GCD;
- Reaffirms the ICJ 1996 decision on the obligation to pursue negotiations;
- Reaffirms the vital role of implementation of the NTP, recognizes the vital importance of the CTBT and the contribution of NWFZs;
- Emphasizes the inalienable right of Parties to nuclear energy for peaceful purposes;
- Recognizes the need to strengthen participation of women in nuclear disarmament;
- Finally stresses the role of public conscience and the efforts of the Red Cross, international organizations, NGOs in furthering the principles of humanity evidenced in the call for the total elimination of nuclear weapons.

There were constructive changes, but some of the operative paragraphs need further discussion.

- Core prohibitions are very clear and unchanged from the previous draft;
- The procedure for declarations by Parties are now clearer. The same can be said of the measures to eliminate nuclear weapons. Need to clarify some points, for example what “programmes” mean in this context);
- There is more flexibility in the provisions regarding verification. (Perhaps greater clarity about the “competent international authority” is required);
- Order of the articles on implementation and victim assistance reversed, without change;
- No change in provisions on cooperation;
- Article on meetings of States parties now list the matters that can be considered;
- Several changes on articles on amendments; participation of civil society and their proposals are now included;
- The article on relations with other agreements is better formulated now.

This brings me to the comparison with other disarmament processes. It must be stressed that no previous international agreement on nuclear weapons ever established a clear, legally binding obligation to disarm. Since the start of the nuclear age, all agreements have aimed at preventing proliferation. Progress was made in that direction, particularly with the NPT, the CTBT and the NWFZs. Nuclear weapon States have been trying to interpret such agreements as legitimizing their exclusive possession of nuclear weapons. 71 years after the adoption of Resolution No. 1, the current negotiation, however, is the first serious attempt to establish a legally binding, irreversible and verified obligation to take effective measures to eliminate nuclear weapons. The NPT and customary international law require all nations – not just those that possess nuclear weapons – to negotiate for nuclear disarmament. The ban treaty will provide a solid foundation for future multilateral action.

I am sure that in the coming week there will be important comments and proposals and that different States and opinion groups will try to have their views reflected in the final product. In my view this final product must respond to the criteria needed for its effectiveness: it must be clear, simple, and provide for wide inclusiveness.

Regardless of the opposition and diffidence of the nuclear-armed nations, and although, as I said, further discussion is needed on some points, I have no doubt that we will adopt a treaty prohibiting nuclear weapons by consensus on July 7. We are perfectly aware that this Treaty will not immediately halt nuclear weapons development or diminish the threat that

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current nuclear weapon arsenals pose to all humanity but it is an important step in the right direction. It inscribes into positive international law a repudiation of nuclear weapons and establishes a clear path toward their elimination.

Once adopted, the impact and effectiveness of this Treaty will depend essentially from its wide acceptance by States and the continuing and active support of civil society, particularly in those States that possess nuclear weapons and their allies. This will take time and considerable effort. In any case, the Treaty is a powerful statement of the will of the majority international community and public opinion worldwide to outlaw the most cruel and indiscriminate weapon of mass destruction ever devised. We are all committed to its success and its universalization.