

## **Open-ended Working Group 2016-05-11**

### **Statement on pathways, panel V, by Dr. Annika Thunborg, Director, Department of disarmament, non-proliferation and export control, Swedish Ministry for Foreign Affairs**

Thank you Mr. Chairman,

First let me warmly thank High Representative Kim Won-soo for being with us here today and for sharing your perspective of the importance of trying to find common ground, a perspective my delegation shares. I also thank Nick Ritchie for his enthusiastic speech.

Mr. Chairman,

We have been slightly disappointed with the discussion over the last days. Few delegations have engaged on the topic of the session, namely elements. We understand that countries may not yet have developed their national positions as regards to what elements they will be able to push forward and those that they will have to hold back on in future negotiations, but it would be very important that such positions are advanced before we embark on further work for the sake of credibility and chance of success. The questions my delegation put forward in our statement on Monday remain on the table, for all delegations to reflect on. We appreciate the statement by UNIDIR yesterday, which was held in a similar spirit.

Mr. Chairman,

My delegation is supportive of the need to dedicate specific time to further identify and elaborate on possible pathways to achieve and maintain a nuclear-weapon-free world. This will help us better understand each other's perspectives and lay the foundation for possible ways ahead that we ideally can take together.

Sweden would be supportive of any legal measure or process that could make a difference, in our view this is what is meant by effective. Difference could be made through concrete changes on the ground, changes through norms or through processes that keep a momentum going. For norms to be effective, they need to have sufficient support and added value.

The most important norm in the nuclear field is the NPT. It is of crucial importance to strengthen this Treaty. Further disarmament measures would, in our view do so; indeed they are needed to implement Article VI of this Treaty which is a strong and clear but general provision that doesn't lay out the specifics of implementation.

The NPT does not legitimize possession, to say otherwise is a misinterpretation of the object and purpose of the Treaty. Five countries possessed nuclear weapons when the NPT was being negotiated and the Treaty's Article VI obliges them to disarm these weapons. In the review process over the last 45 years, many commitments have been made, including the unequivocal undertaking by the nuclear weapon states to the total elimination of nuclear weapons, that should they have been acted upon and implemented as was agreed, we would have come very close to a nuclear-weapon-free world. Unfortunately, this is not the case. And therefore, we have these deliberations here today. Since implementation of made commitments has not been taken seriously, it is the duty of the international community to contemplate additional ways forward.

We regret that countries that possess nuclear weapons do not participate in this OEWG. Indeed, they have an obligation to be here, in light of their nuclear disarmament obligations and the need for them to take responsibility for creating a safer and more secure world. We are very glad however that countries in nuclear alliances participate in the sessions. It shows a shared commitment to a nuclear-weapon-free world among non-nuclear weapon states.

Mr. Chairman,

The measures that are on the table already and have been there for a long time continue to be relevant. These measures are important in their own right and as building blocks to achieve a nuclear-weapon-free world. We take strong issue with those who argue that it is all or nothing, that partial measures are problematic because they legitimize retention and possession of nuclear weapons. First, they don't, as the NPT doesn't. Secondly, it is because of these measures, the treaties and norms that have been put in place since the beginning of the nuclear age, that we have built a web of mutually reinforcing

instruments that have made us safer and more secure, in particular regions, as well as globally. They have helped us prevent nuclear war, so far.

Sweden supports the effective measures presented by 23 countries in their working paper “A progressive approach”. These and other measures include increasing transparency, reducing the risk including through de-alerting, reducing further the arsenals including non-strategic and stockpiled nuclear weapons, reducing the role of NW in security doctrines, a CTBT in force, commencing FMT negotiations, developing verification capabilities, commencing a follow-up agreement to New Start between the US and Russia as proposed by President Obama in Berlin in 2013, providing negative security assurances to NNWS, and strengthening and creating new NWFZs.

These measures should of course be pursued without conditions to be in line with the commitments made in the NPT framework. These measures would make a real difference on the ground, but since they have been stalled for a long time, it will be important for delegations to put additional and creative thought into how these measures could be realized. In this regard we welcome proposals from a number of delegations on negotiations of an FMT in the UNGA.

Mr. Chairman,

Currently my government discusses issues related to the prohibition and the elimination of nuclear weapons in the Swedish National Delegation on International Law and Disarmament, which is an advisory board to the Foreign Minister, composed of representatives from the government, parliament, relevant authorities and institutions, and civil society as well as academic experts in international law and disarmament. I cannot prejudge the outcome of these deliberations, but I can nevertheless reflect on the issues before us today.

My delegation sees many similarities between the different approaches and perspectives that have been presented by countries, in particular between the framework and the building block approaches. The framework approach can contribute with a framework to the building block approach. If a framework, a skeleton, could be negotiated and the building blocks that needed to be included in this framework generally agreed upon, including on the prevention

of the use and threat of use, we would have come a long way with elaborating the implementation of Article VI, and with building bridges among nations with different perceptions of security which is needed if we are to make a real difference on nuclear disarmament.

The main issue that separates the different approaches is, in our view, the question of timing, i.e., when a prohibition on nuclear weapons should be negotiated, should it be at the beginning or at the end of a process? A framework agreement could help bridge the gap also in this regard, with its approach that the instrument that is most ripe for negotiation and agreement should take precedence and that there are no particular sequencing to the adoption of measures. A skeleton framework could be elaborated upon and put in place, and filled in over time, with additional protocols, as in the CCW. Countries could also adhere to the different protocols over time.

Mr. Chairman,

A comprehensive nuclear weapons convention, complete with a verification regime and an implementation organization is, of course, by far the most palatable approach since it by definition is global in reach. One could say that partial work on such a convention has started, through the treaties and instruments that have been put in place already and through on-going processes. Crucial additional elements are yet to be elaborated, as are specific time-lines and benchmarks, and a “framework” in which the different articles and provisions fit.

This “framework” has thus quite a bit in common with the proposal for a framework agreement, which in turn is similar to the proposal of the UN Secretary General’s five-point plan on “a framework of agreements banning nuclear weapons.”

Another possible instrument that may be contemplated and possibly also serve as a bridge between the NWC, the framework agreement, and the building block approach, is an additional protocol to the NPT. The advantage of such a protocol would be that it keeps nuclear disarmament as an integral part of the NPT. It may help those countries that are concerned that new instruments may weaken the NPT – a perspective, I need to underline, my delegation doesn’t share. An additional protocol to the NPT could be negotiated as a separate

instrument, i.e. the Treaty as it stands would not be touched; instead, it would be an elaboration of Article VI and would include similar elements as for a nuclear weapons convention, a framework agreement or a building block approach; it would be open to nuclear armed states outside the NPT, which as part of the process would commit to the non-proliferation parts of the NPT as well.

The disadvantage of a NWC or an additional protocol to the NPT is that commencement of negotiations and progress can be held up and delayed by countries with nuclear weapons.

Mr. Chairman,

A framework agreement and a ban treaty, on the other hand, could – theoretically - be negotiated without nuclear armed states, and yes, the framework and the first instrument in a framework agreement, as well as a ban treaty, could – theoretically - be negotiated in a rather short time-period since they would focus on the norm and not on disarmament.

The important question that arises then is, will such an instrument be effective, will it make a difference, will it have added value, compared to the instruments we already have?

As I mentioned on Monday, this will depend on whether it goes beyond obligations under the NPT for the non-nuclear weapon states, beyond obligations under the nuclear-weapon-free zone treaties for its members or for countries with similar obligations under national law. It will depend on whether countries other than those that already are members of nuclear-weapon-free zones or have similar obligations under national law participate in the negotiations and adhere to the said instrument.

The normative value of any treaty is significant in itself. Norms are the foundation of the global order we have attempted to create since the end of World War II, since the creation of the United Nations, to painstakingly put layer upon layer in place to create a safer and more secure world and a world characterized by human dignity. How strong a norm is depends on its degree of universality and application and what difference it is able to make, in the short

and in the long term. How universal it is; whether it can become customary international law.

The Biological Weapons Convention is perhaps the existing treaty that has most in common with a future nuclear weapons ban treaty. The BTWC is a normative ban since it doesn't provide for the disarmament and verification of the dismantlement of biological weapons. The failure to agree on a verification protocol and an implementation organization for the BTWC 15 years ago has made the convention weaker than its counterparts, the CWC and the CTBT. Still, it is an immensely important norm that set a new standard for the possession, acquisition, development and use of biological weapons. Its success as a norm, however, has depended on its large membership and that countries with the capabilities of developing biological weapons negotiated and adhered to it. If we can achieve something similar with a nuclear weapons ban, it would indeed make a real difference.

The obligations and adherence will determine whether the ban treaty in reality will be similar to a global NWFZ-treaty as the Clingendael institute has listed as an option, or something more.

Mr. Chairman,

There is one partial measure that we think could gain support among both countries with nuclear weapons and countries in nuclear alliances, and this is the prohibition on the use or threat of use of nuclear weapons. This is a measure, an instrument, which we believe could make an immediate difference in terms of its normative value and impact, make us safer in the current security environment, and help make right on the commitment to reduce the reliance on nuclear weapons in security doctrines.

The support of nuclear allied states for such a measure would help build bridges with the NWFZ community and among the different approaches discussed in this session.

In light of the catastrophic humanitarian and environmental consequences of nuclear weapons and the real risk that these weapons will be used again in our life-time, by accident, miscalculation or design or by non-state actors acquiring these weapons, it is our obligation, as an international community to mitigate

these risks and totally eliminate these weapons as we agreed already in the first resolution of the UNGA in 1946.

It would be important that all of us here in the OEWG try to bridge our differences and see our similarities. That non-nuclear weapon states work together is key to achieving strong norms and rules that can make a real difference.

Thank you Mr. Chairman.