



**Statement by H.E. Dell Higgle
Ambassador for Disarmament**

**Open-Ended Working Group on Taking
Forward Multilateral Nuclear Disarmament
Negotiations**

11 May 2016

Thank you Mr Chair.

You have sought our views today, Mr Chair, on the respective advantages and disadvantages of the pathways available to us in taking forward multilateral nuclear disarmament negotiations - and you have also asked us about the best modality or process for these negotiations.

I think that the fundamental division in this room is not between those who favour one *particular* pathway over another for these negotiations - after all, the exact form and scope of an instrument is not too difficult to determine during the course of its negotiation. The fundamental divide is, instead, between those who *do* want to proceed with nuclear disarmament negotiations - and those who do *not*.

Those of us who do want to proceed with a negotiation are not trying to insist that all others must join with us in this enterprise. Conversely, however, those who do not want to proceed with a negotiation seem very determined to try to put barriers in the way of those of us who do.

It is true that the instrument resulting from our negotiation will be most effective if it reflects a truly global endeavour - one embarked upon by all the international community. But we agree with the very insightful Working Paper 14 (put forward by Fiji, Nauru, Palau, Samoa and Tuvalu) that this is highly unlikely to be the case - and that instead, after the treaty has been negotiated and opened for signature, "support will need to be built up over time, up until the point of achieving universal membership".

Over recent days, there have been a number of references in this OEWG to learning the lessons of history. One of the most pertinent lessons of history, Mr Chair, would seem to my Delegation to be that you cannot *indefinitely* prevent others from doing what they believe to be in their best interests. This is as true in the multilateral domain as it is in a national context.

I would like to take this opportunity to restate why it is that NZ has long seen it as being in our best interests that we move forward with multilateral nuclear disarmament negotiations. It was outlined very clearly by NZ's Attorney-General (Hon Paul East) in his oral statement to the International Court of Justice during the proceedings in the lead-up to its 1996 Advisory Opinion: "If ever used, (nuclear weapons) would most likely ensure the *destruction*, not the maintenance of the *security*, of the user... The threat that these weapons represents hangs over the security of the whole international order". As made clear in our written comments to the ICJ, the sooner the point of proscription of nuclear weapons is reached "the more secure the international community will be".

In contrast, we do not agree with the view put forward by at least one Nuclear Weapon State to the Court that "those treaties which have been adopted regarding nuclear weapons presuppose that there are circumstances in which such weapons might lawfully be used" and that the lawfulness of state practice regarding the possession of nuclear weapons "has received recent confirmation in the unanimous adoption of ... the decision of the Conference to extend the NPT indefinitely".

Instead, New Zealand continues to believe that the object and purpose of the NPT was *not* to enshrine the status quo – and that the *quid pro quo* for the renunciation of nuclear weapons on the part of those who did not have them in 1968 was the conduit provided by Article VI pursuant to which the Five NWS would ultimately also give them up. The necessity of their doing so is reinforced by the horrific nature of nuclear weapons, the seeming impossibility of their usage in conformity with the requirements of IHL, and the fact that both other types of Weapons of Mass Destruction are already prohibited.

In the unanimous and unconditional view of the ICJ, Article VI of the NPT does indeed establish an obligation to pursue in good faith and bring to a conclusion multilateral nuclear disarmament negotiations. We cannot force others, Mr Chair, to live up to the obligation articulated by the Court. But we *can* ensure that no one who wishes to take part is excluded. As is befitting, then, a global issue and risks that affect the security and well-being of all the international community, participation must be open to everyone. This suggests to my Delegation that the UN General Assembly will provide the most appropriate venue and process.

Equally, we need to give ourselves the best prospects for a successful outcome to our endeavour: in the words of the International Court of Justice, we need to ensure our negotiations are able to *reach a conclusion*. Experience with a range of negotiating forums indicates that processes requiring consensus very often result in stalemate and that, accordingly, the process, or modality, with the best prospect of a successful outcome is one governed, indeed like this OEWG itself, by the standard Rules of Procedure of the UNGA.

We are confident that our views, which we know are shared by the overwhelming majority of States present, will find reflection in the report you will be presenting to us in August.

Thank you, Mr Chair.