

Madam President,

New Zealand welcomes the opportunity now to convey our reactions to draft Article 1, entitled General Obligations, of the text in CRP.1. We have, of course, already provided some initial comment on Article 1 in the context of the broad overview of CRP.1 which we presented in our opening general remarks yesterday.

As I said then, Madam President, we believe that the set of prohibitions which you have incorporated in Article 1 has given us an excellent basis on which to continue and finalise our negotiations here. We support the general approach adopted in your listing: we can see that it is quite comprehensive and we believe that this is very appropriate.

Comments on the general structure of the Article 1 text (16 June)

We are aware that a number of the prohibitions may seem, possibly, to double up on each other (as is probably the case with regard to the prohibitions set out in subparagraphs (b) and (c) of Article 1.1 relating to transfer and the receiving of a transfer). But we accept that this is as a result of the deliberate usage in (b) and (c) of the language of the NPT whilst, at the same time, a range of new prohibitions have been incorporated in other subparagraphs. And in this regard, it is certainly our view that the risk of an **overlap** of prohibitions is far preferable than the converse.

That said, we do not favour an actual *repetition* of prohibitions – as would seem to be the case with regard to the prohibition on testing in Article 1.1 (e) and which is, to all intents and purposes, repeated in paragraph 2. (b). To be clear, New Zealand does strongly favour the inclusion of a prohibition on testing in our new instrument - but we do *not* see the advantage of repeating this in *two* subparagraphs – as at present – when we believe this can very effectively be achieved in *one* subparagraph.

More broadly, Madam President, we wonder whether the bifurcation in Article 1 (as between paragraph 1 and paragraph 2) is in fact necessary and whether it might not be preferable to combine the two paragraphs and two listings into *one* single paragraph and listing. We agree with Argentina's comments on this and look forward to seeing their proposal in writing. In our view, a single "chapeau" with a single listing under it would make the provision both clearer

and simpler – but without any change to its current scope. But we would wish to lend our support to Ireland’s proposal to include in the text of the chapeau the phrase “at any time” so that it is clear that the prohibitions in Article 1 would apply “under any circumstances and at any time”.

Comments on the prohibitions in Article 1 (19 June)

I am speaking to supplement our initial remarks delivered on Friday and which focused on the *structure* of Article 1 with some comment now on substantive aspects of this Article.

I would like first to express New Zealand’s support for the position put forward by the Delegation of Malaysia and of Mexico this morning that there is no need in the treaty for definitions, including of nuclear weapons. We are happy to follow the approach used in the Nuclear Non-Proliferation Treaty (NPT) and see no need for the definition of a nuclear weapon.

We also support South Africa’s statement delivered just now regarding the importance of an inclusion in the text of the “threat of use” of nuclear weapons.

We agree, too, with South Africa’s suggestion for handling the issue relating to financing of nuclear weapon production. It seems a sensible way forward, including for the reasons put forward by Austria relating to the difficulties of implementation of any such provision, not to include explicit language on this in the text but, rather, to deal with the issue pursuant to the ‘assistance, encouragement or inducement’ language currently incorporated in subparagraph (f). This would enable implementation, to the extent feasible, in each national context and according to national legal systems - we see this as very appropriate.

New Zealand’s comments on Friday have already made very clear our strong support – shared I know with other members of our Pacific Island community – for the inclusion in Article 1 of a prohibition on testing.

I would like now to move on to the issue of transit – and to respond to some very specific observations by the Delegation of Ecuador on Friday when speaking in favour of the inclusion of a prohibition on transit. It was suggested then that *all* States are already obligated to prohibit the transit of nuclear as

well as other weapons of mass destruction pursuant to UN Security Council Resolution 1540 – and since many of us here are also Parties to the Convention on the Physical Protection of Nuclear Material – we are *already* required to control transit. And that, accordingly, there should be no problem with including a parallel obligation in Article 1 of the prohibition treaty.

It is indeed true, Madam President, that these two instruments impose obligations in relation to transit. But they define transit fairly narrowly either limiting it to internal waters and the land territory of a State or confining it to the context of exports. In addition, the obligations in both texts contain *heavy qualifications* (for example, in the context of UNSCR 1540 there are frequent references to “in accordance with national procedures” and to the need for consistency with international law - and it specifies that the laws to govern transit are to be “appropriate”). Equally, the Convention on the Physical Protection of Nuclear Material restricts its obligation to what is “reasonable and practicable”, contains the qualification “as far as practicable” and repeats the need for consistency with international law.

New Zealand would not wish to have the important prohibitions set out in Article 1 of this treaty qualified with similar caveats such as “as far as practicable” or “if reasonable”. Yet if we include transit in its scope, we will have to define our terms (in order to make it clear that we are not looking to infringe the requirements of international law pursuant to the terms of the UN Convention on the Law of the Sea) and include similar qualifications to those set out in UNSCR 1540 and the Convention.

The inclusion of transit would, accordingly, have important flow-on consequences for other aspects of the text. The New Zealand Delegation’s approach is guided by the terms of our own Treaty of Rarotonga - and which does not include a prohibition on transit.

Thank you.