

Mr. Chairman,

Brazil has submitted today a working paper that covers our views on the guiding questions proposed by this Panel. Regarding the essential elements that would comprise effective legal measures for attaining and maintaining a world without nuclear weapons, I would like to recall that the 2013 OEWG and the NAC, at the last NPT Review Conference, have already listed the possible courses of actions by setting out different approaches. We need not to engage in a similar endeavor now – but to move forward in narrowing down our options.

In this sense, the current OEWG could retrieve the distinction made in the 2013 OEWG report between "interim" legal measures and "end-state" legal measures, and continue from there.

The "end-state" legal measures comprise a core set of prohibitions and obligations, to be applied non-discriminatorily to all States, regarding a) nuclear weapons themselves and b) nuclear fissile material. The main elements of both these categories should be:

- a) All States should be prohibited to use, possess, stockpile, transfer or receive, produce and develop nuclear weapons, and also to aid or abet other States seeking to do so. The prohibition to develop nuclear weapons should unambiguously include tests in all their forms, including subcritical experiments and computational simulations.
- b) All existent fissile material should be placed under international safeguards. States should be prohibited to produce, stockpile, transfer or receive fissile material for nuclear weapons. Small quantities of highly-enriched uranium or separated plutonium should be allowed for research purposes and, where there is no LEU alternative, civilian as well as non-proscribed uses. These should be put under the strictest international safeguards. All prohibitions and safeguarding obligations should be non-discriminatory.

On one hand, "end-state" legal measures can be elaborated in a straightforward manner. On the other, "interim" measures – those leading

up the total elimination of nuclear weapons – could assume many forms, depending on how they are put forward. They must include, however, the obligation to eliminate current nuclear arsenals in a transparent, verifiable and irreversible manner, as well as specific obligations dealing with the production and existing stockpiles of weapons' grade fissile material, so as to achieve in a timely manner their complete disposal under effective international control.

It must be noted that the differentiation between "end-state" and "interim" measures does not imply precedence. In fact, insofar as much of the definition of the interim measures depends on the proposed end-state, it is plausible to argue that it is more practical to first consider, and possibly negotiate, the elements necessary to maintaining a nuclear weapon-free world, which is tantamount to define how such a world would be, and then define the steps to proceed towards it.

Mr. Chairman,

I would also like to recall that the humanitarian pledge does not specify whether prohibition could be separated from the process of physical elimination, and, if so, which to pursue first. The question of sequencing is, therefore, significant.

Brazil would like to suggest a hybrid possibility – a Ban Treaty that would have, at the outset, the characteristics of a comprehensive instrument, delineating "end-state" legal measures, namely prohibitions on use, possession, stockpiling, transfer, production and development of nuclear weapons, as well as fissile materials for nuclear weapons. The Treaty, however, would not have to immediately include "interim" measures leading up to the elimination of current nuclear arsenals.

Under the plausible assumption that no Nuclear Weapon State – “de jure” or “de facto” – would support the conclusion of a Ban Treaty or join it before it enters into force, there would be no political urgency in negotiating immediately the destruction of current arsenals and its verification instruments. Those measures could be the subject of future negotiations of a model-protocol, especially after one (or more) Nuclear

Weapon State joins the treaty. This model-protocol could be inspired in the document INFCIRC/153 of the IAEA – which is an agreement to structure the safeguards arrangements between the Agency and States Parties. This would provide the instrument with sufficient flexibility, leaving the door open for future accessions.

The “General Obligations” section under the Model Convention submitted by Costa Rica and Malaysia to the United Nations General Assembly in 2007 (document A/62/50) could be used as an initial draft for negotiations of the Ban Treaty. Although this option would not immediately address concerns regarding the existing nuclear weapons, it would certainly constitute an enormous progress in creating an explicit international prohibition on the use, development and possession of nuclear weapons, filling the legal gap and covering whatever is left of hypothetical “legal” use of those weapons.

Mr. Chairman,

Brazil also recalls that, in nuclear disarmament, any of the legal measures being now considered would stand in a similar position with regard to the NPT, reinforcing its core objectives, especially those deriving from Article VI.

There is, in this sense, no need to *harmonize* or *streamline*, as there is no contradiction between existing instruments and the ones that are envisioned here. Surely, the provisions which allow Nuclear Weapon States under the NPT to temporarily hold nuclear weapons will cease to have effect, but this would be the *realization* of the NPT, not its demise. The temporary nature of these provisions is obvious from the inner logic that governs the Treaty, underpinned by Article VI.

Thank you.