I. General Point on the nuclear disarmament discourse:

When assessing the Treaty Prohibiting Nuclear Weapons (TPNW), it is important for the Committee to be conscious of the fact that the nuclear weapons discourse is dominated by nuclear weapon states (the P5, IN, PK) and “Western, Countries” (e.g. NATO-allies, JP, AUS etc.) that are mostly in in military arrangements with the US and rely on extended nuclear deterrence. This is reinforced by a think tank community and academia from the same countries and funded by these countries who further accentuate the perspective of states that possess and/or rely on nuclear weapons. The perspective of the vast majority of non-nuclear weapon states in the NPT is significantly underrepresented, often due to lack of capacity. This one-sided approach is also visible, thus far, in the discourse on the TPNW.

Consequently, the trust deficit that exists in the wider NPT community as a result of the limited implementation of the agreed nuclear disarmament obligations under Art. 6, may not be appreciated or understood to the extent necessary in the European/Western perception of the nuclear weapons discourse. Based on my experience in the NPT context, my assessment would be that the vast majority of non-nuclear weapon states consider the lack of compliance with the obligations of the disarmament pillar as equally urgent and damaging to the credibility and integrity of the NPT as the non-proliferation challenges, like the one posed by the DPRK. The Humanitarian Initiative and the TPNW should be understood against this background and as an approach that aims to address a key deficit in the NPT context by member states of the NPT who are concerned about the health of the disarmament and non-proliferation regime.

II. Specific points on the Treaty on the Prohibition of Nuclear Weapons (TPNW)

i. Key motivation behind the TPNW

The basic premise of the TPNW is that a security system based on nuclear deterrence is an extremely precarious proposition and appears a net security loss rather than gain when it is weighed against the dangers and risks associated with nuclear weapons, in particular their catastrophic humanitarian consequences.

The scope and effects of the catastrophic humanitarian consequences have been considered in depth in the context of the humanitarian initiative at a series of international conferences in 2013 and 2014 on the basis of scientific expert input. During this process, the view of the majority of NPT member states has matured that in order to prevent any use, nuclear weapons have to be prohibited. In view of the catastrophic consequences of nuclear weapons, the TPNW strengthens, rather than undermines, security.
The key conclusions of this series of conferences where captured in the “Humanitarian Pledge” supported by more than 130 States, which provided the rationale for the TPNW:

- the immediate, mid- and long-term consequences of a nuclear weapon explosion are significantly graver than it was understood in the past and will not be constrained by national borders but have regional or even global effects, potentially threatening the survival of humanity,
- the complexity of and interrelationship between these consequences on health, environment, infrastructure, food security, climate, development, social cohesion and the global economy that are systemic and potentially irreversible,
- the risk of a nuclear weapon explosion is significantly greater than previously assumed and is indeed increasing with increased proliferation, the lowering of the technical threshold for nuclear weapon capability, the ongoing modernisation of nuclear weapon arsenals in nuclear weapon possessing states, and the role that is attributed to nuclear weapons in the nuclear doctrines of possessor states,
- the risk of nuclear weapons use with their unacceptable consequences can only be avoided when all nuclear weapons have been eliminated,
- the consequences of a nuclear weapon explosion and the risks associated with nuclear weapons concern the security of all humanity and that all states share the responsibility to prevent any use of nuclear weapons,
- the scope of consequences of a nuclear weapon explosion and risks associated raise profound moral and ethical questions that go beyond debates about the legality of nuclear weapons,
- no national or international response capacity exists that would adequately respond to the human suffering and humanitarian harm that would result from a nuclear weapon explosion in a populated area, and that such capacity most likely will never exist,
- calls on all states parties to the NPT to renew their commitment to the urgent and full implementation of existing obligations under Article VI, and to this end, to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons (…),

ii. A number of objections to the humanitarian initiative and the TPNW have been voiced.

Objection 1: The TPNW is ineffective in that it will not eliminate a single nuclear weapon (NW)

Assessment: This argument is most often heard from representatives of States possessing nuclear weapons, presented by them as a reason why these States would not join the TPNW. In terms of logic, this particular connection of cause and effect is a vicious circle: States with NWs are not willing to join the TPNW because, in their view, it will not eliminate a single nuclear weapons. Of course,
the TPNW cannot eliminate a single weapon in itself as long as nuclear weapon States are not joining.

Logic aside, the objection misses the point that a legally binding nondiscriminatory prohibition of nuclear weapons creates the basis for their elimination and practical measures towards this objective. This was the case with the Biological as well as the Chemical Weapons Conventions. The pressure and momentum created by the TPNW on nuclear disarmament as well as on non-proliferation, is intended to facilitate reductions of nuclear weapons and establish potential pathways once countries possessing these weapons are ready to abandon them.

**Objection 2: The TPNW delegitimizes nuclear deterrence and thereby undermines security**

**Assessment:** The objection really consists of two parts. **Part one** is the premise that nuclear deterrence increases security and therefore should not be delegitimized. This premise is far from being universally accepted. The overwhelming majority of States has chosen not to be protected by nuclear deterrence because they see their national security better served without nuclear weapons or without a nuclear umbrella. This view towards nuclear weapons and on the urgency of nuclear disarmament has consolidated in the process leading to the TPNW.

**Part two** of the objection is logically inconsistent with objection 1: Critics claim that the TPNW delegitimizes nuclear deterrence to a degree that security is undermined. But if the TPNW is ineffective and would not even be capable to bring about the elimination of one single nuclear weapon, how then could it delegitimize nuclear deterrence to a degree that security is undermined?

Finally, delegitimization of nuclear deterrence is not a new and exclusive feature of the TPNW. It is already present in the various treaties on nuclear weapon free zones for their respective States Parties, and even in the NPT for the non-nuclear weapon States among its States Parties. It is true that these treaties do not delegitimize nuclear deterrence for nuclear weapon States under the NPT. But neither was the NPT ever meant to legitimize an endless retention of this weaponry.

**Objection 3: The TPNW deepens divisions and diverts attention away from other nuclear disarmament initiatives, thereby blocking progress there**

**Assessment:** Divisions about nuclear disarmament exist since 1945. The lack of progress in the implementation of Art. VI of the NPT has certainly deepened divisions over the last years, which was demonstrated at the NPT Review Conference 2015 and is certainly one of the elements that promoted the process leading to the TPNW. However, the assertion that the TPNW is responsible for the divisions confuses cause and effect. The divisions exist because of the lack of progress on Art. VI.

The TPNW is part of the nuclear disarmament and non-proliferation architecture and is complementing and strengthening it. The promoters of the TPNW have always emphasized the importance of progress on all tracks of nuclear disarmament and non-proliferation, as contained notably in the NPT 2010 Action Plan. Some of these issues, such as the CTBT, are explicitly referenced in the
preamble of the TPNW. The new treaty does not only not take away attention from these other issues, but creates new momentum in nuclear disarmament efforts that can and should be used to promote progress also on those issues.

It thus appears that by focusing the debate on the alleged shortcomings and detrimental effects of the TPNW, some actors seek to divert attention from the lack of progress in the implementation of Art. VI of the NPT and the commitments under the NPT 2010 Action Plan.

Objection 4: The TPNW puts more political pressure on the Western nuclear powers than on the others, thereby creating an advantage for the latter

Assessment: The TPNW sets a non-discriminatory norm which has the aspiration of becoming universal. It is directed against nuclear weapons as such and not against any particular States or alliances currently relying on them. As former UN Secretary General Ban Ki-Moon put it, “There are no right hands for the wrong weapons”. While it is sincerely to be hoped that States will always act as responsibly as possible with regard to nuclear weapons in their possession, current political events have nurtured doubts as to whether this can always be safely assumed for any of the States and any of the political decision makers concerned.

It is likely that governments of different States will face differing degrees of domestic pressure to accede to the TPNW. But this has less to do with the TPNW than with political systems. Western States also face stiffer discussions when it comes, e.g. to human rights or the protection of the environment.

Objection 5: The TPNW undermines the NPT and the IAEA safeguards system

Assessment: Negotiators took great care, and succeeded, to ensure that not a single word in the new treaty is in contradiction with the NPT. On the contrary: The preamble contains a reaffirmation of the NPT’s role as the cornerstone of the nuclear disarmament and non-proliferation regime. Article 2 reiterates the wording of prohibitions in the NPT. Article 4 establishes a pathway for nuclear armed States to meet their obligation to pursue nuclear disarmament under Article VI of the NPT.

As to the IAEA safeguards system, Article 3 of the TPNW ensures that States maintain in the future as a minimum their IAEA safeguards obligations in place today. For the majority of States, this means an Additional Protocol. For these States, the TPNW thereby secures the current standard of non-proliferation verification, which is higher than the one stipulated by the NPT. For those currently not having an Additional Protocol in place, the Comprehensive safeguards agreement stipulated by the NPT is set by the TPNW as the minimum requirement, while the perspective to further strengthen these obligations in the future is explicitly referred to. The TPNW even mentions possible stronger relevant instruments in the future. Therefore, the TPNW does in no way undermine the IAEA safeguards system, but on the contrary strengthens it.

Objection 6: The TPNW does not address nuclear disarmament verification
**Assessment:** The TPNW recognizes the importance of the principle of verification of nuclear disarmament, notably in Article 4. The absence of specific verification provisions was only logical and stems from the fact that the nuclear armed States, as the ones with most expertise on verification and which most immediately affected by such provisions, did not take part in the negotiations. Nevertheless, the TPNW provides space (e.g. through a future verification protocol) to include the input of adhering nuclear armed States to develop concrete verification measures, once they join the treaty. Therefore, the TPNW does in no way create a loophole for cheating on nuclear disarmament. On the contrary, it would create the basis for transparent verification measures with regard to nuclear armed States, when they accede.

**Objection 7: The current international security environment is not ripe for the TPNW (and additional nuclear disarmament in general)**

**Assessment:** It is precisely because of the more challenging security situation, that progress in nuclear disarmament is even more urgent today than in a more benign situation. This is supported by the historical fact that the most significant advances in terms of nuclear disarmament were achieved when tensions were high during the Cold War. Arguably, the security environment in 1968 when the NPT was negotiated was not less challenging than today.

**III. Potential for UK leadership role in the NPT process**

In addition to my answer to this question in the oral evidence session, I would like to add the following:

The UK could consider a proactive role among the NPT nuclear weapon states in engaging on the substantive arguments that underpin the TPNW, in particular the humanitarian consequences and the risks associated with nuclear weapons. Right from the beginning of the humanitarian initiative, nuclear weapons states were reluctant or outright hostile towards engaging in these discussions because they saw them discussions merely in the context as a driver for potential a ban treaty. The P5 stayed away from the humanitarian impact conference in Oslo 2013 and Mexico 2014. UK and US participated in the 3rd such conference in Vienna in December 2014, albeit somewhat reluctantly.

The persistent lack of P5 engagement in these discussions about legitimate security concerns regarding nuclear weapons consequences and risks antagonized many NPT non-nuclear weapon states. Arguably, it has also contributed to a significant degree to actually generating the political momentum for the TPNW by strengthening the conclusion that pursuing a comprehensive prohibition treaty was the only promising way forward left to non-nuclear weapon states. This dynamic was particularly visible during the 2015 NPT Review Conference when 159 states had co-signed a joint statement on the humanitarian consequences of nuclear weapons, expressing *inter alia* the importance of all states to engage in these discussions. It was during the NPT Review Conference, when it became clear that nuclear weapon states were not ready to engage in these discussions and that no progress on nuclear disarmament would be achievable, that the support for the Humanitarian Pledge grew significantly.

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The situation has not changed much since the TPNW was negotiated. Nuclear weapon states continue to dismiss the treaty and put forward unsubstantiated arguments that the TPNW would be detrimental to the NPT and the wider disarmament and non-proliferation regime. The latter assertion is seen as particularly confrontational, given that the main proponents of the TPNW are among the States that most unconditionally support of the NPT with longstanding impeccable implementation records.

In view of the 2020 NPT Review Conference and with the TPNW expected to enter into force in the near future and hence becoming a reality in International Law, it should be possible to shift attention from a discussion merely on the pros and cons of the TPNW. The vast majority of NPT member states would be keen to engage in a meaningful and substantive discussion on the humanitarian consequences and risks arguments underpinning the TPNW (and ultimately also the NPT for that matter). The original objective of the humanitarian initiative was to create a new/different angle for the discussion on nuclear weapons. In particular, the aim was to discuss whether a closer and facts based assessment of the humanitarian consequences of nuclear weapons and a more thorough understanding of the risks associated with maintaining nuclear weapons would provide a basis for a different assessment of the security value of nuclear weapons and the validity of the nuclear deterrence concept.

In order to overcome the divisions within the NPT membership on the issue on nuclear disarmament, such a constructive discussion is urgently needed. It would require a broad participation of stakeholders and the constructive engagement with the different positions and arguments. I would assume that the vast majority of NPT non-nuclear weapon states that support the TPNW would welcome if the UK were to lead P5 engagement in this direction.

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