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Council of Delegates of the International Red Cross
and Red Crescent Movement

Geneva, 26 November 2011 – **For humanity**



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**COUNCIL OF DELEGATES
OF THE INTERNATIONAL RED CROSS
AND RED CRESCENT MOVEMENT**

Geneva, Switzerland
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Working towards the elimination of nuclear weapons

Background document

prepared for resolution 1 “Working towards the elimination of nuclear weapons”
adopted at the Council of Delegates 26 November 2011

Document prepared by

The International Committee of the Red Cross

Geneva, October 2011

BACKGROUND DOCUMENT

Document prepared by the International Committee of the Red Cross

Working towards the elimination of nuclear weapons

Background: Developments in the nuclear disarmament debate

The international context and governmental discourse on nuclear weapons has changed dramatically over the last few years. A summit of the United Nations Security Council (September 2009) and the Review Conference of the Treaty on the Non-proliferation of Nuclear Weapons (NPT, May 2010) endorsed the objective of a world without nuclear weapons. The United States and Russia have now both ratified the new Strategic Arms Reduction Treaty (START), which will substantially reduce the number of nuclear warheads they deploy. The five nuclear weapon States that are the permanent members of the UN Security Council have affirmed their "continuing responsibility to take concrete and credible steps towards irreversible [nuclear] disarmament". NATO and non-NATO States have made commitments to reduce the role played by nuclear weapons in their security policies.

In addition, due in part to an appeal to States by the ICRC President in April 2010,¹ greater attention is now being paid to the human costs of nuclear weapons and the implications of their use in terms of international humanitarian law. At the Review Conference of the NPT in May 2010, States Parties for the first time explicitly expressed their "deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons" and reaffirmed "the need for all States at all times to comply with applicable international law, including international humanitarian law." These and other events have re-invigorated the discussion about nuclear weapons from a humanitarian perspective, this in contrast with the dialogue among States that had, for decades, focused primarily on the geopolitical, security and deterrence roles of these weapons.

In light of the new nuclear disarmament debate currently unfolding, the views of the ICRC and National Societies are being increasingly solicited by governments and civil society organizations. The International Red Cross and Red Crescent Movement has worked on a variety of weapons issues over the past 20 years. Governments and much of civil society, including non-governmental organizations, also expect the Movement to have a credible viewpoint on nuclear weapons which is based on humanitarian considerations and international humanitarian law itself.

"Working towards the elimination of nuclear weapons"

The draft resolution "Working towards the elimination of nuclear weapons" has been prepared to help position the Movement in the changing context of the nuclear disarmament discussion. The resolution is intended to:

- ensure that States, parliamentarians, organizations, civil societies and other entities correctly understand the Movement's position and concerns regarding nuclear weapons
- help further re-frame the international debate on these weapons in terms of their human costs and international humanitarian law implications, and

¹ See: <http://www.icrc.org/eng/resources/documents/statement/nuclear-weapons-statement-200410.htm>

- support the efforts made on nuclear weapons by National Societies that are willing to work on this issue on a national basis.

A copy of the draft resolution with annotations is annexed at the end of this document. The annotations highlight the fact that many of the resolution's elements derive from and build on the positions and statements made by the International Court of Justice, States party to the NPT, States that possess nuclear weapons and the ICRC.

The current version of the draft resolution is the result of extensive consultations between the ICRC, National Societies and the International Federation. The ingredients for a possible resolution were first presented to 21 National Societies invited to a consultation on nuclear weapons in Oslo (12 to 14 May 2011). The meeting was organized by the Australian, Japanese and Norwegian Red Cross Societies. Following these discussions, the ICRC prepared a draft resolution, which was sent to all National Societies for their comments on 7 June 2011. After considering the comments received by 30 June, the ICRC finalized the current draft resolution for consideration by the Council of Delegates. Throughout this process, National Societies were invited to consider becoming co-sponsors of the resolution.

Previous Movement action on nuclear weapons (1945-2010)

The draft resolution "Working towards the elimination of nuclear weapons" is only the latest step in the Movement's work regarding nuclear weapons and other weapons of mass destruction. The ICRC's concern about nuclear weapons began almost immediately after they were used in Hiroshima on 6 August 1945. Dr Marcel Junod, an ICRC delegate in the Far East at the time, was one of the first foreign doctors to arrive in the city, witnessing first-hand the devastating effects of the atomic bombing and bringing aid to the survivors.

The Red Cross and Red Crescent Movement voiced its concern about nuclear weapons in the aftermath of the Hiroshima and Nagasaki bombings. In September 1945, the ICRC sent a message to all National Societies expressing the wish that nuclear weapons be abolished. Subsequently, the entire Movement articulated its views through resolutions adopted at its International Conferences calling for weapons of mass destruction to be prohibited, in particular nuclear weapons. Resolution XXIV of the 17th International Conference (1948), referring to so-called "non-directed weapons" (i.e. atomic weapons), called on States "to undertake to prohibit absolutely all recourse to such weapons and to the use of atomic energy or any similar force for purposes of warfare." It was followed by Resolution XVIII of the 18th Conference (1952). This text on atomic weapons urged "governments to agree, within the framework of general disarmament, to a plan for the international control of atomic energy which would ensure the prohibition of atomic weapons and the use of atomic energy solely for peaceful purposes."

More recently, the Movement expressed concern about nuclear weapons at the 2009 Council of Delegates. Resolution 7 ("Preventing humanitarian consequences arising from the development, use and proliferation of certain types of weapons") stated that the Council was "gravely concerned by the continuing threat posed by the potential proliferation or use of nuclear weapons and welcomes States' increased focus on nuclear disarmament on the international agenda". More specifically, the resolution "calls upon States to continue their efforts towards the elimination of nuclear weapons with determination and urgency."

The Movement will also recall that, on 20 April 2010, ICRC President Jakob Kellenberger made a statement on nuclear weapons to the Geneva diplomatic corps. This was the first time that an ICRC president had spoken directly to States solely on this matter. President Kellenberger recalled nuclear weapons' horrific and long-term consequences for health and stressed the fact that even today there is little capacity, and no realistic or coordinated

international planning, to assist the victims of nuclear, chemical, biological or radiological weapons. He highlighted the opportunities for progress currently at hand and reminded States of the International Court of Justice's opinion that using nuclear weapons would generally be contrary to international humanitarian law. Speaking for the ICRC as a humanitarian organization, Kellenberger appealed to all States to ensure that such weapons were never used again, regardless of those States' views on the legality of such use. The president of the Federation, Tadateru Konoé, also addressed the issue of nuclear weapons in a speech to the World Summit of Nobel Peace Laureates in Hiroshima (November 2010) and urged action to ensure that no community, city or country ever again endured the horrors of such weapons.

These statements have inspired a number of National Societies to raise the issue of nuclear weapons at the national and/or regional level. The Australian Red Cross is planning a national public campaign to emphasize the human costs of nuclear weapons, their incompatibility with IHL and the need to make their use illegal. The Red Cross Societies of Denmark, Finland, Iceland, Norway and Sweden have agreed to increase their efforts regarding nuclear weapons. In 2010 they sent a collective appeal to Nordic governments calling on them to pursue negotiations aimed at eliminating the weapons through a legally binding treaty.

Dr Marcel Junod's account of Hiroshima opened with these words: "The physical impact of the bomb was beyond belief, beyond all apprehension, beyond imagination. Its moral impact was appalling." Nuclear weapons are at odds with the concept of our common humanity, pose grave problems in terms of the most fundamental principles of international humanitarian law, and can threaten the continued existence of the human species. The principles of the International Red Cross and Red Crescent Movement make it impossible to remain indifferent to these terrifying effects. Humanity currently stands at a crossroads. The Movement can play a key role in ensuring that the right choice is made.

Annex

Annotated Draft Resolution

Working towards the elimination of nuclear weapons

The Council of Delegates,

deeply concerned about the destructive power of nuclear weapons, the unspeakable human suffering they cause, the difficulty of controlling their effects in space and time, the threat they pose to the environment and to future generations and the risks of escalation they create,

Reference – International Court of Justice, Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, 1996, paragraphs 35 and 36

"35. According to the material before the court, the first two causes of damage [i.e. heat/energy and prolonged radiation] are vastly more powerful than the damage caused by other weapons, while the phenomenon of radiation is said to be peculiar to nuclear weapons. These characteristics render the nuclear weapon potentially catastrophic. The destructive power of nuclear weapons cannot be contained in either space or time. They have the potential to destroy all civilization and the entire ecosystem of the planet.

36. In consequence, in order correctly to apply to the present case the Charter law on the use of force and the law applicable in armed conflict, in particular humanitarian law, it is imperative for the Court to take account of the unique characteristics of nuclear weapons, and in particular their destructive capacity, their capacity to cause untold human suffering, and their ability to cause damage to generations to come."

concerned also by the continued retention of tens of thousands of nuclear warheads, the proliferation of such weapons and the constant risk that they could again be used,

disturbed by the serious implications of any use of nuclear weapons for humanitarian assistance activities and food production over wide areas of the world,

believing that the existence of nuclear weapons raises profound questions about the extent of suffering that humans are willing to inflict, or to permit, in warfare,

Reference – Speech of Jakob Kellenberger, President of the ICRC to Geneva diplomatic missions, 20 April 2010.

welcoming the renewed diplomatic efforts on nuclear disarmament, in particular the commitments made by States at the 2009 United Nations Security Council Summit on Nuclear Non-Proliferation and Nuclear Disarmament, the 2010 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons and the Treaty Between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms,

welcoming also the commitments made by States at the highest levels in the above fora to create the conditions for a world free of nuclear weapons through concrete actions in the fields of nuclear non-proliferation and nuclear disarmament,

References:

1. Final Document: Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, 2010, Conclusions and recommendations for follow-on actions: Nuclear Disarmament (excerpts):

"...the Conference agrees on the following Action Plan on nuclear disarmament which includes concrete steps for the total elimination of nuclear weapons:

A. Principles and Objectives

i. The Conference resolves to seek a safer world for all and to achieve the peace and security of a world without nuclear weapons in accordance with the objectives of the Treaty.

ii. The Conference reaffirms the unequivocal undertaking of the nuclear weapons-States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament..."

2. Joint submission of China, France, Russian Federation, UK and USA to the 2010 NPT Review Conference:

"We reaffirm...our continuing responsibility to take concrete and credible steps towards irreversible [nuclear] disarmament..."

3. UN Security Council Resolution 1887, adopted with 14 Heads of State present, 24 September 2009

"Resolving to seek a safer world for all and to create the conditions for a world without nuclear weapons, in accordance with the goals of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)..."

recalling the 1996 advisory opinion of the International Court of Justice, which confirmed that the principles and rules of international humanitarian law apply to nuclear weapons and concluded that the threat or use of such weapons would generally be contrary to the principles and rules of international humanitarian law,

Reference – International Court of Justice, Advisory Opinion: Legality of the threat or use of nuclear weapons, 8 July 1996, para 105 (E)

It follows from the above-mentioned requirements that the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of international humanitarian law.

drawing upon the testimony of atomic bomb survivors, the experience of the Japan Red Cross and ICRC in assisting the victims of the atomic bomb blasts in Hiroshima and Nagasaki and the knowledge gained through the ongoing treatment of survivors by the Japanese Red Cross Atomic Bomb Survivors Hospitals,

bearing in mind the resolutions on weapons of mass destruction in general and the abolition of nuclear weapons in particular, adopted by the International Conferences of the Red Cross and Red Crescent in 1948, 1952, 1957, 1965, 1969, 1977 and 1981; the Council of Delegates in 2009; and the statements on nuclear weapons made by the President of the International Committee of the Red Cross to the Geneva diplomatic corps in April 2010 and by the President of the International Federation of Red Cross and Red Crescent Societies to Nobel Laureates in Hiroshima in November 2010,

convinced that the Red Cross and Red Crescent Movement has an historic and important role to play in efforts to create the conditions for a world without nuclear weapons,

1. emphasizes the incalculable human suffering that can be expected to result from any use of nuclear weapons, the lack of any adequate humanitarian response capacity and the absolute imperative to prevent such use,

2. finds it difficult to envisage how any use of nuclear weapons could be compatible with the rules of international humanitarian law, in particular the rules of distinction, precaution and proportionality,

References:

- Statement of ICRC to the 1st Committee, UN General Assembly, 1996
- Speech of President Kellenberger to Geneva diplomatic missions, 20 April 2010.

3. appeals to all States:

- to ensure that nuclear weapons are never again used, regardless of their views on the legality of such weapons,

References:

- Speech of President Kellenberger to Geneva diplomatic missions, 20 April 2010.
- Nuclear Posture Review Report of the United States, April 2010 (excerpts)

It is in the U.S. interest and that of all other nations that the nearly 65-year record of nuclear non-use be extended forever.

- Joint statement of Presidents Obama and Medvedev, London, April 2009

"We committed our two countries to achieving a nuclear free world, while recognizing that this long-term goal will require a new emphasis on arms control and conflict resolution measures, and their full implementation by all concerned nations."

- to pursue in good faith and conclude with urgency and determination negotiations to prohibit the use of and completely eliminate nuclear weapons through a legally binding international agreement, based on existing commitments and international obligations,

References:

- Art. 6 Treaty on the Non-Proliferation of Nuclear Weapons,

"Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a Treaty on general and complete disarmament under strict and effective international control."

- Resolution 7 of the 2009 Council of Delegates, paragraph 5,

"The Council of Delegates calls upon States to continue their efforts towards the elimination of nuclear weapons with determination and urgency;"

– International Court of Justice, Advisory Opinion: Legality of the threat or use of nuclear weapons, 8 July 1996, para 105 (F)

"There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control"

4. calls on all components of the Movement, in light of our common commitment to humanitarian diplomacy:

- to engage, to the extent possible, in activities to raise awareness among the public, scientists, health professionals and decision-makers of the catastrophic humanitarian consequences of any use of nuclear weapons, the international humanitarian law issues that arise from such use and the need for concrete actions leading to the prohibition of use and elimination of such weapons,
- to engage, to the extent possible, in continuous dialogue with governments and other relevant actors on the humanitarian and international humanitarian law issues associated with nuclear weapons and to disseminate the Movement position outlined in this resolution.

Reference – Final Document: Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, 2010, Conclusions and recommendations for follow-on actions: Section I Nuclear Disarmament (para A.v):

The Conference expresses its deep concern with the catastrophic humanitarian consequences of any use of nuclear weapons, and reaffirms the need for all States at all times to comply with applicable international law, including international humanitarian law.