Chemical, Biological, Radiological Sevenoaks Action for Peace with Justice

and Nuclear Policy 71 Pilgrims Way West

Ministry of Defence Otford

Main Building Sevenoaks

Whitehall London SW1A 2HB Kent, TN14 5JH

12 August 2016

Dear Chris Clapham,

Thank you for your letter reference CBRN2016CC1 dated 28 July 2016. The purpose of this letter is to ask for clarification of your position.

Your letter states that the International Court of Justice Advisory Opinion of 1996 did not conclude that the use or threat of use of nuclear weapons would necessarily be unlawful. You said that this is a matter that could only be determined "in light of the circumstances applying when such use is being contemplated". These words are not specifically used in the Advisory Opinion but can be inferred. The inference is of little practical help as shown by the following numbered paragraphs, which do include direct quotes from the Advisory Opinion:

1. The Court unanimously agreed in its concluding paragraph 105 that "A threat or use of nuclear weapons should also be compatible with requirements of international law applicable to armed conflict, particularly those of the principles and rules of humanitarian law ....".

2. Paragraph 86 of the Advisory Opinion notes that "So far as customary law of war is concerned, the United Kingdom has always accepted that the use of nuclear weapons is subject to the general principles of the *jus in bello*". You will be aware that *jus in bello* includes principles of discrimination and proportionality.

3. Finally paragraph 94 of the Advisory Opinion observes that "none of the States advocating the legality of the use of nuclear weapons under certain circumstances ...... has indicated what ..... would be the precise circumstances justifying such use". In our opinion this shows that these States, including the UK, are not prepared to face up to hard truths. If you disagree then please respond to the following question.

In your opinion are there any circumstances when nuclear weapons can be legally fired at targets that include centres of civilian population or which would cause widespread damage to the natural environment? If you believe that there are such circumstances then we ask for examples. If you do not believe this then we see no reason why the Defence Secretary should not sign our Declaration.

Please respond to our question at your earliest convenience.

Yours sincerely,

Jim Pragnell **For Sevenoaks Action for Peace with Justice**