
United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination

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Nuclear Ban Treaty

Comments and notes on the Treaty draft text in view of the second Session of Negotiations at United Nations (New York, June 15th - July 7th 2017)

Submitted by International Campaign to Abolish Nuclear Weapons¹

1. On 22 May 2016 the first draft of the Convention on the Prohibition of Nuclear Weapons was released: the text is the outcome of the first conference session held at the United Nations last March (a delegation from Senzatmica and the Italian Disarmament Network was present).
2. The second session, for the final discussion on the text of the Treaty, will take place from 15 June to 7 July. An international agreement which for a long time appeared to be impossible to achieve, and which many have contemptuously described as pointless, utopian, unrealistic, is about to be concluded. Thanks especially to the efforts of civil society organizations from all over the world, and their long years of active support for the Humanitarian Initiative (of which the draft treaty's Preamble is imbued) aimed at achieving the total abolition of nuclear weapons.
3. The alliance of international organizations with over 130 non nuclear weapon States is about to fill a gap that has long been intolerable, enabling the world to move from a moral prohibition to a full legal prohibition: the draft text states clearly (in Article 1) the prohibition for States Parties to the Convention to use, develop, produce and transfer nuclear weapons. Paragraph 2 of this Article is also extremely significant: it prohibits any stationing, installation or deployment of nuclear weapons on the territory of States Parties, a prohibition that would have consequences on those European States, including Italy, which host US nuclear weapons on their territory.
4. The Italian Disarmament Network and Senzatmica fully support the draft treaty and will be present with their own delegations at the second session of the Conference to offer their concrete contribution, alongside the International Campaign to Abolish Nuclear Weapons, to the final drafting and approval of an international

¹ On behalf of ICAN Italian members (Campagna Senzatmica and Rete Italiana per il Disarmo)

legal instrument which will bring together the highest principles and robust implementation procedures.

5. The draft text shared with States participating in the Conference can be further improved, for example including in the Preamble a reference to the unacceptable risk that nuclear weapons can expose civilians to, as well as highlighting more clearly the vast resources spent on nuclear weapons – which cannot therefore be spent on much-needed socio-economic development programmes. Among the general prohibitions listed in Article 1 we shall ask for the “threat to use nuclear weapons” to be included; a further request from civil society is to strengthen the general prohibition to provide assistance in the production of nuclear weapons, envisaging a broader prohibition of financial assistance and, more generally, of ‘financing’.

6. A historic agreement is about to be concluded. There are those who believe that a treaty to which the nuclear weapons States and their allies are not party will be useless. Their objections appear quite weak to us. Undoubtedly the dismantling of nuclear stockpiles will need the involvement of nuclear weapons States, and every effort must be made in order to convince them to join a disarmament process which is actually already an obligation under international law (the Non Proliferation Treaty), but which over recent years has come to a standstill, dangerously. We shall put our efforts into ensuring that all parties fully understand that a complete elimination of all nuclear weapons, agreed upon by the broadest possible number of parties, will become a core element of our human security and peaceful coexistence perspective, and will enable us to finally supersede the absurd notion of deterrence.

7. But the Convention that will be approved in a few weeks’ time has a value that is much more than merely symbolic, as its detractors claim. The Treaty Banning Nuclear Weapons will in any case change the international legal framework and will oblige all – including non signatory States – to take stock of the new situation, especially the impact that the new convention will have on public opinion. It will undoubtedly be difficult for those States that choose not to sign the treaty to explain to their citizens what considerations led them to defend these terrible and unacceptable weapons of mass destruction, instead of making considerations of peace and life their priority.

Analysis of the draft treaty text

8. In recent weeks, after the draft treaty was released by Costa Rica Ambassador and Conference President Elayne Whyte Gomez, several international civil society organizations active in the field of nuclear disarmament have shared their analysis and comments on the draft text.

9. Campagna Senzatomica and the Italian Disarmament Network fully endorse some of the suggestions made and are pleased to be able to provide an Italian version of these recommendations in order to enable political institutions, the media and public opinion to be fully informed and take a position on such an important topic. What follows are texts and links to documents produced by various organizations

which we are sure will be useful reference tools in view of the second session of the negotiations on a Treaty Banning Nuclear Weapons.

10. Campagna Senzatomica and the Italian Disarmament Network would like to underscore the following points in particular.

Nuclear weapons are immoral and can annihilate humanity

11. In the Preamble we feel that it should be clearly stated that the treaty is founded on the conviction, shared by all parties, that nuclear weapons should never be used again: they do not solve any of mankind's problems, they are immoral, and their use can potentially destroy humanity.

*The States Parties should make clear in the Preamble that they are convinced that nuclear weapons serve no legitimate purpose given their indiscriminate nature, inherent immorality and potential to annihilate humanity.
(from ICAN's Briefing Paper – June 2017)*

The text must outlaw all types of assistance, including financial

12. In the section on General Obligations the text should state more clearly that even financing, or offering financial services of any kind, in the process of nuclear weapons production is equivalent to providing assistance to those who use nuclear weapons.

*The draft prohibition on assistance is strong, but could be stronger by making specific reference to a prohibition on financing of nuclear weapons production. Such an explicit prohibition builds on the growing understanding that providing financial services to companies involved in the production of key components that play a direct role in the lethality of inhumane weapons constitute a form of assistance. Including 'financing' as a named part of assistance therefore strengthens the overall text and provides clarity and guidance towards treaty implementation.
(from ICAN's Briefing Paper – June 2017)*

It is of fundamental importance to define in detail how nuclear-sharing arrangements are to be dealt with

13. In the sections on Stockpile destruction, the text should state more clearly which procedures a State that has hosted nuclear weapons on its territory must observe, and which procedures will be enacted in order to verify that provisions have been correctly observed.

The articles don't make clear the process by which States that have hosted nuclear weapons can confirm that such arrangements are no longer in place. Furthermore, procedures for confirmation that nuclear weapons no longer play a role in States Parties' policies and doctrines are not provided for. The requirements of article 2

*could be expanded so that all States Parties should address and report on their compliance with the general obligation of the treaty.
(from ICAN's Briefing Paper – June 2017)*

Attention to the role of victims of the entire nuclear weapons production chain and to the role of civil society within the Convention structures

14. The text should provide more details on the provisions for assistance to victims of the entire nuclear weapons production chain, including use and testing; and those on environmental remediation for land and marine environments that may have been contaminated or damaged by the nuclear weapons production chain.

15. In the provisions detailing the organization of future meetings of the States Parties the text should state more clearly the role of international organizations and international civil society.

*The treaty should specify that international organizations and civil society will be invited not only to attend but also participate in the meetings of States Parties and Review Conferences, at least in the same manner as international organizations and civil society are participating in the negotiations of the treaty.
(from ICAN's Briefing Paper – June 2017)*

Define more clearly the processes leading to the definitive elimination of nuclear weapons

16. In Article 5 of the draft text, for example, the issues that need to be solved for the final, controlled, timebound and verifiable elimination of nuclear weapons are not fully addressed. Decisions on the matter are delegated to future Review Conferences (to be held every five years, it appears, like those for the Non Proliferation Treaty) and to future Additional Protocols.

Eliminate the reference to withdrawal options

17. Article 18 of the draft envisages the possibility of withdrawing from the Convention, should the State's supreme interests be at stake; a reference to supreme interests is unwarranted since – by way of an example - Russia may consider her nuclear weapons essential to her security due to NATO's conventional superiority, or conversely NATO may consider its own nuclear weapons essential in order to deter Russian nuclear weapons; if China or North Korea feel they need to deter US nuclear weapons, if Pakistan or India need to deter each other mutually, or if Israel needs to balance its own numerical inferiority against the Arab states. And this would allow the current situation to become crystallized. The possibility of withdrawing undermines the very meaning of a ban treaty. For this reason we feel that it is essential not to envisage a withdrawal clause.

Maintain and strengthen the fundamental prohibition of hosting nuclear weapons belonging to third parties

18. A very important provision in the draft text of the Ban Treaty is the prohibition for non nuclear weapon States to host on their territory nuclear weapons belonging to nuclear weapon States. Currently about 150 US nuclear weapons (B-61 gravity bombs, whose modernization has, unfortunately, already been decided) are deployed in the Netherlands, Belgium, Germany, Italy (about 20 in Aviano and 20 in Ghedi, according to the latest estimates of the Federation of American Scientists) and Turkey. We believe that it is of fundamental importance that the largest possible number of countries undertake never to host nuclear weapons belonging to other States. The deployment of nuclear weapons belonging to another State is still today a way of circumventing the 1970 Non Proliferation Treaty without having to withdraw from it; it is our belief that even just this prohibition would make the effort of achieving a Ban Treaty a success. This provision must remain in the final text.

For these reasons, among others, we would like the treaty to include the prohibition of the installation, stockpiling of nuclear weapons outside of the country they belong to and also the prohibition to host these weapons in non nuclear-armed states.

For the same reasons we would like the treaty to include the prohibition of the transfer and deployment of nuclear weapons or parts of them through non nuclear-armed states territories and/or means.

This would be furthermore relevant if a nuclear-armed state is using the ban treaty as the vehicle to eliminate its nuclear weapons, or if a state formally hosting weapons on a territory under its control is renouncing and removing those weapons.

(Statement by Senzatonica, first session of Ban Treaty negotiations – March 2017)