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

3 July 2017

English

New York, 27-31 March 2017 and 15 June-7 July 2017

**Draft Ban Treaty
ACDN Working Paper - 30 June 2017**

Madame President,
Distinguished Delegates,

We wish to draw your attention to:

- 1) an underlying contradiction between two paragraphs of the Preamble of the Draft Treaty (A/CONF.229/2017/CRP.1/Rev.1) and its Article 19;
- 2) a precision to be introduced in Article 1 – General obligations (now entitled “Prohibitions”).

1. Preamble and Article 19

According to Article 19, “the Ban Treaty shall not prejudice obligations undertaken by States Parties with regard to existing or future international agreements, to which they are parties, where those obligations are consistent with this Treaty”. That provision implies that, in case of conflict between the Treaty and any other agreement, the Treaty prevails.

But in the Preamble, § 18:

(18) Reaffirming (...) that the full and effective implementation of the Treaty on the Non-Proliferation of Nuclear Weapons, which serves as the cornerstone of the nuclear disarmament and non-proliferation regime, has a vital role to play in promoting international peace and security,

implies that the Ban Treaty is subordinate to the nuclear Non-Proliferation Treaty.

This subordination is obvious in § 21:

(21) Emphasizing that nothing in this Treaty shall be interpreted as affecting the inalienable right of its States Parties to develop research, production and use of nuclear energy for peaceful purposes without discrimination,

This so-called “inalienable right” is one of the three pillars of the NPT, but it has nothing to do with the Ban Treaty, which deals only with the prohibition and consequently the elimination of nuclear weapons as covered in part by NPT Article 6. It does not deal with the development of nuclear plants, for instance, as covered by NPT Article 4.

In fact, this “inalienable right” gave North Korea (among others) a means to get plutonium through a so-called “Research Reactor” and then develop its nuclear weapons programme despite the verifications of the International Atomic Energy Agency. It also resulted in tragic humanitarian disasters like Chernobyl and Fukushima, which caused and continue to cause massive deaths, disease and radioactive damage to the environment – all effects rejected by the Ban Treaty.

Otherwise, these two paragraphs 18 and 21 contain grave elements of *misinformation*.

It is wrong to claim that the NPT serves as a “cornerstone” for nuclear disarmament and non-proliferation. First, it did not succeed in preventing proliferation, since at least four States acquired nuclear weapons after the Treaty took effect, including one of them *thanks to the NPT*. Second and still worse, the NPT has never been an instrument of nuclear disarmament. On the contrary, for the Nuclear Weapons States, it has served as a tool *for NON-disarmament*, an excuse for keeping their nuclear bombs without ever negotiating their elimination. The history of the last half century illustrates this point all too clearly, as well as the current behaviour of NWS, which refuse to join the Ban Treaty precisely by taking refuge behind the NPT.

Of course, all Parties to the NPT, when becoming Parties to the Ban Treaty, remain totally free to claim their attachment to all or certain peaceful uses of nuclear energy (for instance, medical ones). But this “right” is not an “obligation”, and if such a right does exist, it must stay under the exclusive responsibility of the NPT. There is absolutely no need to include it in the Ban Treaty, which has just one objective: banning nuclear weapons and similar devices or means of attack, with the ultimate goal of eliminating all of them, including those of States which are not Parties to the NPT. It is aimed at and applies to every State, not only the NPT Parties. The Ban Treaty must be more inclusive than the NPT. Consequently, it should not provide the misleading promotion of nuclear energy nor dissuade States which are non NPT Parties to consider and join the Ban Treaty, nor assign a dominating role to the NPT.

2. Article 1, Precision

Everywhere in the draft, it is said that the prohibition concerns “nuclear weapons or other nuclear explosive devices”. One can easily understand that a “nuclear weapon” is a bomb that when exploded triggers a nuclear chain reaction, either by fission or fusion. But what are these “other nuclear explosive devices”? They are not defined anywhere in the text.

We suggest adding the following precisions to the object of prohibition, so that it may include at least:

- “mininukes”, because they could be used as battlefield weapons under the false argument that they have a limited power of destruction and could avoid “lateral damage” to civilians and the environment;
- “dirty bombs”, because they use classical explosives, but also contain nuclear material (nuclear waste, for example) for its radioactive effects;
- and “DU weapons”, because they too use classical explosives (without a chain reaction), but also contain nuclear material (depleted Uranium), the effects of which are inhuman (pyrophoric fires, cancers, and monstrous birth defects. See <http://www.acdn.net/spip/spip.php?article200>)

It is not even necessary to specify “explosive devices”, since it is possible to generate the same inhuman effects as a dirty bomb without using any explosives, for instance by crashing an airplane into a nuclear reactor or by other means that are best not mentioned herein.

3. Proposed amendments

Madame President,
Distinguished Delegates,

In order to free the world of all possible nuclear threats, military or civilian, we ask you

1. **either to remove paragraph 18 of the Preamble or to replace it with the following one:**

Reaffirming that the full and effective implementation of article 6 of the Treaty on the Non-Proliferation of Nuclear Weapons has a vital role to play in promoting international peace and security, and that its demand of negotiating the elimination of nuclear weapons should be addressed to all Nuclear Weapons State, whether or not they are Parties to the NPT;

2. **to remove from the Preamble the added paragraph 21 on the “inalienable right to nuclear energy”**
3. **to add to Article 1 – Prohibitions and everywhere it is useful:**
 - a) **“Develop, produce, ... nuclear weapons or other nuclear devices or means of attack, whatever the power and radioactive components of these weapons, devices or means of attack”.**

Conclusion

Madame President,
Distinguished Delegates,

You have the great responsibility of saving a sane and sustainable world through this “legally binding instrument”. It must be efficient, precise, truthful and undeniably just.

On behalf of our fellow citizens, children, grandchildren and all future generations, we thank you in advance.



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