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

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English

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Recommendations to Improve Aspects of the July 3 Draft Text July 5, 2017 Arms Control Association

1. Our organization appreciates the efforts of the delegations to arrive at an agreement on a new “legally-binding instrument to prohibit nuclear weapons, leading towards their total elimination.”
2. We see this as an important new contribution that can further delegitimize nuclear weapons as instruments of international power and strengthen the legal and political norms against their use.
3. We have carefully reviewed the revised draft text issued on July 3 and find that the text has been improved in a number of ways since the May 22 first draft was issued, but there are a number of areas that could be further refined and strengthened. We believe there is time to make these adjustments.
4. These suggestions are based on the inputs of several of the members of the Board of Directors of the Association, and reflect the views of many – but not necessarily all – of our Directors or our many Arms Control Association members in the United States and around the world.

Preamble

5. We welcome the language in the preamble that recognizes the humanitarian impacts of nuclear weapons, the principles of international and humanitarian law, the central role of the NPT, the CTBT, and nuclear-weapon-free-zone treaties to nonproliferation and disarmament, and that highlights the urgent need for further effective measures to achieve and maintain the total elimination of nuclear weapons.
6. *PP6 is appropriately “Mindful of the unacceptable suffering of and harm caused to the victims of the use of nuclear weapons (hibakusha), as well as of those affected by the testing of nuclear weapons,”*
7. Unfortunately, this passage omits the suffering and harm caused by the “**production**” of nuclear weapons, which as adversely impacted millions of workers

involved in the nuclear weapons production process, as well as residents in areas adjacent to the nuclear weapons production facilities.

Recommendation: Insert “production and” in PP6 so that it reads: “...as well as of those affected by the **production and testing of nuclear weapons**,”

8. We also object to the inclusion of PP21, which is derived from the NPT’s Article IV, and asserts 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,”

9. Given the language in Article 18 (“*The implementation of this Treaty shall not prejudice obligations undertaken by States Parties with regard to existing international agreements, to which they are party, where those obligations are consistent with the Treaty.*”), PP21 is superfluous and should be deleted.

10. In the future, it may be interpreted by some as a license to pursue dual-use technologies for fissile material production and nuclear weapons development that undermine the purpose and intent of this treaty.

11. The focus of this treaty should be on delegitimizing the development, production, testing, use, an threat of use of nuclear weapons, and no to, in any way, endorse risky and inherently dangerous technologies that can be misused to produce fissile material and build nuclear weapons.

Article 1: Core Obligations

12. As we noted in our March 31, 2017 discussion paper for the conference, we do not believe the new treaty needs to include a prohibition on nuclear weapons test explosions because of the prohibition on nuclear testing established by the 1996 CTBT.

13. We respectfully urge that that the negotiating record and the report of the President of the Conference should reflect the view that this language, as well as the inclusion of PP19 of the preamble (on the value of the CTBT), is intended to reinforce the CTBT.

14. Furthermore, we sincerely hope that the likely inclusion of a prohibition on any “test” of a nuclear explosive device in Article I will spur CTBT hold-out states participating in the nuclear weapons prohibition treaty negotiations—**namely Egypt and Iran**—to ratify more promptly the CTBT and cooperate with the important nuclear test explosion monitoring measures designed to verify compliance with the ban on nuclear explosive testing.

Article 3: Safeguards

15. The formulation in Article 3 in the July 3 draft appears not to establish a standard for safeguards that is adequate to ensure that peaceful nuclear activities and material are not used for weapons purposes. History shows that the IAEA safeguards regime must and has and will continue to evolve in order to be effective.

16. The current draft text only appears to obligate states parties not possessing nuclear weapons to maintain or bring into force a Comprehensive Safeguards Agreement with the IAEA (INFCIRC/153 corrected).

17. There is no specific reference to the value of the Additional Protocol or “AP+” measures, which is a goal that states parties at this conference have already agreed to pursue.

18. The 2000, 2010, and 2015 NPT Review Conference reports all stressed “that comprehensive safeguards and additional protocols should be universally applied on the complete elimination of nuclear weapons has been achieved.”

19. The 2010 Conference of NPT states parties:

“...encourage[d] all States parties which have not yet done so to conclude and to bring into force additional protocols as soon as possible and to implement them provisionally pending their entry into force.”

Recommendation: In order to ensure, as the President of this 2017 Conference has insisted, that the nuclear weapons prohibition treaty can stand the test of time, Article 3 of the text must be adjusted to include the following or similar language at the end of paragraph 2:

“All States parties which have not yet done so are strongly encouraged to conclude and to bring into force additional protocols as soon as possible and to implement them provisionally pending their entry into force.”

20. The new nuclear weapons prohibition treaty can be an important contribution but is, clearly, not an all-in-one solution to the dangers posed by nuclear weapons. Following the conclusion of negotiations on this new instrument, additional and difficult work lies ahead.

21. Prohibition treaty supporters, skeptics, and opponents must find new and creative ways to come together to strengthen the NPT regime, in part by advancing new and effective disarmament measures, while easing the growing tensions between nuclear-armed states that make progress difficult and increase the danger of nuclear use.

22. Such measures include but are not limited to:

- securing the ratifications needed to bring the CTBT into force;
- reviving the moribund U.S.-Russian arms control and disarmament dialogue;
- bringing China, India, and Pakistan further into the nuclear risk reduction and disarmament process;
- avoiding the introduction of new and destabilizing strategic weapons systems and technologies;
- concluding legally binding negative nuclear security assurances for nonnuclear-weapon states;
- and conducting smart and sustained diplomacy to halt and reverse North Korea's dangerous nuclear pursuits.

23. We look forward to your support for these and other effective measures in the years ahead.