

The Case for a Nuclear Weapons Convention
NGO statement, NPT PrepCom, Vienna, 2 May 2007

Recently an important turning point was marked - the 200th anniversary of the end of the trans-Atlantic slave trade. The reason slavery was outlawed and deinstitutionalised is because an abolitionist movement grew. This movement was made up of a small number of persistent and increasingly effective people, who were able to arouse the imaginations of larger numbers of people, including influential people, who said No to slavery and Yes to human rights. This anniversary was celebrated because outlawing a shameful social behaviour and violent political practice is worth celebrating. The people who stood up to the cruel profiteers of slavery had a courage that is inspiring and instructive to us today. We remember their names and stories with gratitude and respect. That abolitionist movement would not accept a little bit of regulated slavery under safeguarded conditions. Those abolitionists kept their “eyes on the prize” and they used the word abolition quite deliberately; no slavery whatsoever would be tolerated, because slavery itself is entirely unacceptable.

The immoral threat of annihilating whole cities, populations, countries or even civilisation with nuclear weapons belongs in the past. In the future, anniversaries that mark the abolition of nuclear weapons will be celebrated, because nuclear weapons are unacceptable to the vast majority of nations and people who recognise that they are the result of shameful social behaviour and violent political practice that humanity will evolve from. The prize we keep our eyes on is a Nuclear Weapons Convention. It is primarily a treaty - a negotiated agreement or package of linked agreements - but it is also a set of customs or accepted practices, which will reflect norms, or universal principles. The principles are about our survival, now and into the future, and the conditions under which we can best secure it. The practices are about how states and peoples relate to one another internationally, the tools they need to maintain and enhance genuine security. The treaty will include a mixture of legal, technical and political elements and establish a series of steps to comprehensively prohibit, and systematically eliminate, all nuclear weapons. It will derive from current commitments, legal obligations and security requirements of States, as such providing a practical and realistic path to nuclear weapons abolition.

The majority of countries support nuclear abolition and have registered their belief that negotiations leading to a nuclear weapons convention can and should begin immediately. 125 countries in December 2006 in the UN General Assembly indicated their desire “to achieve the objective of a **legally binding prohibition** of the development, production, testing, deployment, stockpiling, threat or

use of nuclear weapons and their destruction under effective international control.” They called once again upon all States immediately to fulfil their obligation to negotiate disarmament in good faith, “by commencing multilateral negotiations leading to an early conclusion of a **nuclear weapons convention** prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination (A/RES/61/83 ‘Follow-up to the advisory opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons’).

Nuclear Weapon States have agreed to the goal of nuclear abolition, but have not yet exercised the vision or dedication to achieving this goal. The three major barriers to its achievement are the belief by a minority that nuclear weapons provide security through deterrence, which cannot be provided by other means; policies that nuclear weapons can, under certain circumstances, justifiably be used to achieve legitimate objectives; and a lack of confidence that nuclear weapons can be verifiably eliminated with adequate enforcement measures.

The Weapons of Mass Destruction Commission chaired by Hans Blix regretted the ‘serious malaise’ in disarmament diplomacy in recent years, and recommends that nuclear weapons be outlawed, identifying the key as “ dispel[ing] the perception that outlawing nuclear weapons is a utopian goal. A nuclear disarmament treaty is achievable and can be reached through careful, sensible and practical measures. Benchmarks should be set; definitions agreed; timetables drawn up and agreed upon; and transparency requirements agreed. Disarmament work should be set in motion.”¹

A Model Nuclear Weapons Convention, drafted by a consortium of lawyers, scientists and disarmament experts in 1997 and circulated as UN document A/C.1/52/7, demonstrates the feasibility of complete nuclear disarmament through a negotiated treaty. The book *Security and Survival: The Case for a Nuclear Weapons Convention*, published in 1999, discussed the rationale for such a treaty and how it could be achieved. These two documents have been revised and updated as *Securing our Survival*, released at this NPT Prep Com. We invite all delegations to study these documents and enter into informal and formal dialogue on the ideas proposed. We hope that these documents will help stimulate the commencement of nuclear disarmament negotiations and provide some assistance to such negotiations.

¹ Weapon of Mass Destruction Commission, final report, *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms* (Stockholm: June 1, 2006), p. 109.

With the updated discussion on The Case for a Nuclear Weapons Convention, experts have returned, and been joined by others, to consider the NWC in the changed global security dynamic. These experts address the variety of concerns and questions about the call for nuclear abolition under a NWC. In *Securing our Survival*, they argue that in a world experiencing diverse and escalating security challenges and terrorism, nuclear abolition is an attractive, logical and necessary means of reducing and eliminating the dangers of accidents, sabotage or use of a nuclear explosive device.

Major political changes since the Model Convention was first offered have affected the way nuclear non-proliferation and disarmament are addressed. These include the rising spectre of nuclear terrorism, nuclear testing by India, Pakistan and North Korea, concern about nuclear fuel cycle capabilities of some non-nuclear weapon States, the debate on missile defense and an expansion of nuclear doctrines of some of the nuclear weapons possessing states to include the threat or use of nuclear weapons in response to suspected development of weapons of mass destruction and even against threats from conventional weapons or terrorism. Former UN Secretary-General Kofi Annan has also noted the growing divide between those countries advocating non-proliferation first and those advocating disarmament first.

Given these barriers, it might appear premature—or even idealistic—to entertain the idea of a global treaty on nuclear weapons – a Nuclear Weapons Convention (NWC). This approach, however, bridges the divide between advocates of non-proliferation first (mainly Nuclear-Weapon States and their supporters) and advocates of disarmament first (mainly non-Nuclear Weapon States). It outlines political, legal and technical measures that would simultaneously prevent proliferation and take us closer to complete nuclear disarmament. As such it could help break the paralysis in nuclear disarmament negotiations.

The NWC plan might not be perfect. However, the key points demonstrated by the plan are that nuclear abolition is possible, security concerns regarding nuclear disarmament can be met, and that there is now no reason for States to hesitate from commencing comprehensive nuclear disarmament negotiations. The experts from legal, scientific, political and medical fields responsible for *Securing our Survival* reaffirm the perspective of Nobel Peace Laureates in their 2006 Rome Declaration, who said “The failure to work for nuclear weapons abolition shreds the fabric of cooperative security. A world with nuclear haves and have-nots is fragmented and unstable, a fact underscored by the current threats of proliferation. In such an environment cooperation fails. Thus, nations are unable to address

effectively the real threats of poverty, environmental degradation and nuclear catastrophe. Nuclear weapons are more of a problem than any problem they seek to solve.”²

What is a NWC?

In a wider sense, the Nuclear Weapons Convention would be the implementation of the universal societal condemnation of nuclear weapons and the codification of the customary norm against all weapons of mass destruction. It would thus include additional measures at national and international levels further de-legitimising nuclear weapons and supporting their prohibition. Its impact will therefore be deeper and more far-reaching than the treaty language itself. Such a treaty would reflect a broader social and political movement away from reliance on weapons of mass destruction and military solutions to conflicts, and would incorporate the desires and responsibilities of global civil society for a less militarized world. It would realise a profound and near universal desire to finally free this and future generations, human civilisation and the biosphere from the unprecedented and unparalleled threat of nuclear annihilation.

Who Makes a Nuclear Weapons Convention?

Governments are the principal actors and the only ones required to consent to the final agreement. Government bodies, whether trans-national or national, are responsible for existing and future implementation mechanisms. They also manage the agencies with the relevant expertise or information to improve and refine such mechanisms when necessary. Civil society, relevant business actors, international organisations and parliaments, however, are recognized as playing an increasingly important role in the negotiations, treaty acceptance and implementation.³

A new civil society initiative has been recently launched in 60 countries. The International Campaign to Abolish Nuclear weapons is a new internationally coordinated campaign against these weapons of terrors and for a Nuclear Weapons Convention.

² The Rome Declaration of Nobel Peace Laureates, 19 November 2006.
http://www.pugwash.org/reports/nw/Nobelrome_declaration.pdf

³ See Tom Farer, (1995), ‘New Players in the Old Game: The De Facto Expansion of Standing to Participate in Global Security Negotiations’, *American Behavioral Scientist*, Vol. 38 No. 6, p. 842., Margaret E. Keck and Kathryn Sikkink, *Activists beyond Borders* (1998), Cornell University Press, Ithaca, NY and London., Ann. M. Florini, (2000), *The Third Force*. Japan Center for International Exchange, Japan and Carnegie Endowment for International Peace, Washington D.C.

When Will a Nuclear Weapons Convention Be Possible?

The Canberra Commission on the Elimination of Nuclear Weapons determined that, while there is a need to further develop verification and weapons dismantlement systems, there are no real technological barriers to concluding an agreement or agreements to prohibit and eliminate nuclear weapons. The determining factor is not technology but political will

Of the states that possess nuclear weapons, the US, France, Russia and Israel have all argued that even thinking about an NWC is premature. They are unwilling to provide a time reference for beginning, let alone concluding, an NWC. Rather, they are planning on retaining their nuclear weapons arsenals indefinitely into the future and are undertaking replacement and modernisation programs to ensure such long-term possession. The governments of India, China and Pakistan support the commencement of negotiations on an NWC, but have taken no action to advance such negotiations. The UK has accepted the end goal of an NWC and has undertaken some preparatory work on verification requirements⁴, but asserts that it is too early to commence any negotiations and is also planning nuclear weapons renewal programs to maintain its arsenal into the indefinite future. The Democratic People's Republic of Korea has strenuously emphasised that discussions and negotiations in the Conference on Disarmament (CD) should be oriented towards achieving complete nuclear disarmament.

The approach adopted in the Model Nuclear Weapons Convention does not suggest a time bound framework for conclusion of the negotiations or fixed dates for the complete elimination of nuclear weapons. Rather it calls for the immediate commencement of negotiations that ought to be concluded in a quick but comprehensive manner.

At some stage a timeframe for elimination of nuclear weapons will have to be negotiated. The Model NWC suggests that this be done in phases, from entry into force. This is somewhat like incorporating a step-by-step process into a comprehensive approach. The Model NWC attempts to balance the need for a speedy elimination of nuclear arsenals with the concerns of safety, confidence, and irreversibility.

These considerations, while delaying conclusion of an NWC, should not prevent the commencement of negotiations. In fact, it is through the negotiations that these issues can be adequately addressed and

⁴ See Nuclear verification: Working paper submitted by the United Kingdom of Great Britain and Northern Ireland, 2000 Conference of States Party to the NPT, <http://www.reachingcriticalwill.org/legal/npt/NPTDocuments/mc1docs/ukwp.html>

resolved. What is desperately needed is the commitment to begin.

When there is sufficient political will, negotiations can be concluded fairly quickly. The Partial Test Ban Treaty, for example, was concluded in ten days of determined negotiating in July 1963, after years of deadlock.⁵ We all know that the NPT and the whole disarmament negotiating machinery has experienced years of deadlock, but many of the obstacles to change may very well soon be voted out of the way, thereby allowing the democratic will of the majority of states and citizens to realize the long held goal and unequivocal undertakings for the total elimination of nuclear arsenals.

Uncertainty about the future did not prevent large-scale development and deployment of nuclear weapons, which shaped the international security regime. Similarly, decisive action towards nuclear disarmament will shape the viability of this goal. Uncertainty about the future has rarely prevented human beings from seeking answers—in fact, it is generally an incentive. In the context of nuclear weapons, pursuit of these answers is imperative for securing our survival.

How to Achieve a Nuclear Weapons Convention?

There are three general views as to how nuclear disarmament can best be achieved. The first, a step-by-step approach, entails negotiations on a limited number of initial steps towards nuclear disarmament. The US, which supports this approach, has indicated that next steps should be bilateral reductions in stockpiles as agreed under the Moscow Treaty⁶, and a treaty to cut off production of fissile material.⁷ The NPT Review Conferences in 1995 and 2000 agreed that a Comprehensive Test Ban Treaty was one of these disarmament steps.

A divergent perspective calls for comprehensive negotiations on the complete elimination of nuclear weapons under a time-bound framework. The Non-Aligned Movement, for example, has called on the Conference on Disarmament to “commence negotiations ... on a phased program of nuclear disarmament and for the eventual elimination of nuclear weapons within a time-bound framework”.⁸

⁵ Daalder, Ivo H. The Limited Test Ban Treaty. In: Carnesale Albert, and Richard N. Haass, eds., Superpower Arms Control: Setting the Record Straight. Cambridge, Mass.: Ballinger. 1987.

⁶ Treaty Between the United States of America and the Russian Federation On Strategic Offensive Reductions, May 2002. <http://www.state.gov/t/ac/trt/18016.htm#1>

⁷ Statement by John Holum, Acting Undersecretary of State and Director of the US Arms Control and Disarmament Agency, UN First Committee, October 14, 1998

⁸ UNGA Res. 50/70 P, 12 December 1995.

A third perspective calls for a middle path between the first two, combining elements of the step-by-step approach and the comprehensive approach into an incremental–comprehensive program. The declaration of eight foreign ministers entitled *Towards a Nuclear-Weapon-Free World: The Need for a New Agenda*, calls for a series of bilateral, plurilateral, and multilateral steps, which would lead towards the elimination of nuclear weapons through a legally binding instrument or framework of instruments.⁹

The authors of *Securing our Survival: The Case for a Nuclear Weapons Convention* suggest that a NWC is best achieved through this latter incremental-comprehensive approach, where a series of unilateral, bilateral, plurilateral, multilateral and global steps can be taken concurrently. They discuss the possibilities open to the Conference on Disarmament, international conferences including the whole membership of the UN General Assembly, states covered by Nuclear Weapons Free Zones, and an Ottawa style process similar to that which evolved the Landmine Ban treaty, practices and norms. They also discuss the NPT.

Is the Non-Proliferation Treaty Review Cycle a Negotiating Opportunity?

The parties to an existing treaty could negotiate a protocol, an amendment or even a new treaty in order to further the aims and objectives of the current treaty. The Philippines, for example, suggested in 1996 that the parties to the Non-Proliferation Treaty convene a conference for the purpose of negotiating an NWC as a means to implement Article VI of the NPT.¹⁰ The Marshall Islands in 1997 proposed that the 2000 NPT Review Conference establish an inter-sessional working group to assist in negotiations on an NWC.¹¹ If such a group were established, considerable preparatory work for an NWC could commence even before the nuclear weapons states agree to enter into negotiations.

Malaysia and Costa Rica submitted working papers to the 2000 and 2005 NPT Review Conferences calling on States Party to the NPT to “agree to commence multilateral negotiations leading to the conclusion of a nuclear weapons convention and *invite* those States that have not acceded to the Treaty

⁹ “Towards a Nuclear-Weapon-Free World: The Need for a New Agenda”, joint declaration of the foreign ministers of Brazil, Egypt, Ireland, Mexico, New Zealand, Slovenia, South Africa and Sweden, June 9, 1998.

¹⁰ Statement by Philippines President Fidel Ramos. Manila. July 9, 1996.

¹¹ General considerations to be taken into account by Parties in the Review Process. Submitted by the Marshall Islands. NPT/CONF.2000/PC.I/11, 11 April 1997.

on the Non-Proliferation of Nuclear Weapons to join in such negotiations.”¹²

Another proposal is that the parties to the NPT call a special conference to amend the NPT.¹³ The amendment, in the form of a negotiated protocol to the treaty, would prohibit nuclear weapons and provide for their elimination. While obtaining agreement from the nuclear weapon states on such a protocol could be difficult, the NPT requires a conference to be held to discuss the proposal if one-third of the parties to the treaty request such a conference. A similar approach was taken in 1991 when one-third of the parties to the Partial Test Ban Treaty requested a conference at which they proposed amending the PTBT to make it a Comprehensive Test Ban Treaty. While the nuclear weapon states did not agree to the amendment, the process did help achieve a negotiating mandate for a CTBT in the Conference on Disarmament.

Conclusion

The leaders of the nuclear weapon states have not yet demonstrated the political will to abolish nuclear weapons. They continue to be influenced not to develop such will by strong political forces with an interest in the status quo – including nuclear weapons contractors for example. Barring a massive nuclear catastrophe, or the emergence of new and visionary global leaders, only the combined efforts of citizens and supportive non-nuclear governments are likely to persuade them to move. That is exactly what is occurring – citizens are mobilising, and so are governments who are increasingly joining their voices and efforts – keeping our eyes on the prize we will achieve nuclear abolition and a Nuclear Weapons Convention.

¹² *Follow-up to the Advisory Opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons: Legal, technical and political elements required for the establishment and maintenance of a nuclear weapon-free world*: Working Paper submitted by Malaysia, Costa Rica, Bolivia, Democratic Republic of Timor-Leste, Nicaragua, and Yemen. 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, 2-27 May 2005, <http://www.lcnp.org/disarmament/npt/2005NPTmalaysia-wp.htm>

¹³ “Diplomatic Judo: Using the NPT to make the nuclear weapons states negotiate the abolition of nuclear weapons”, Zia Mian and M.V.Ramana, Center for Energy and Environmental Studies, Princeton University, October 1998.