



Newsletter

April 2017



HISTORICAL UN NEGOTIATIONS TO PROHIBIT NUCLEAR WEAPONS

Arielle Denis

While worrying tensions involving nuclear weapons states in Europe and Asia are rising, the first session of the negotiations “on a new legally binding instrument to prohibit nuclear weapons, leading toward their total elimination”, ended on March 31st at the UN headquarters in New York.

Over 130 countries, international organizations, experts and civil society representatives actively participated. “We have felt an impressive spirit of courage, empowerment and emergency to prohibit the worst weapons ever conceived” stated Reiner Braun, IPB co-president, expressing every participant’s feelings. Such spirit of openness and sincere commitment to the goals of the discussions provides a serious hope that the Treaty will be effectively completed by the end of the second round, which will take place from June 15th to July 7th.

This is a truly historical event: the countries that do not possess nuclear weapons and civil society actors have managed to build a successful momentum based on the terrible humanitarian impact of nuclear weapons. The nine nuclear weapons states, despite their power and wealth, despite manoeuvres of intimidation, and pathetic gesture in front of the Conference room, could not stop the momentum.

The vast majority of governments and peoples are immensely frustrated by the lack of progress in nuclear disarmament in regards to the threats that these weapons are posing to the very survival of humankind and our environment. Over 220 civil society organizations participated and several petitions were presented to Ambassador Elayne Whyte Gomez of Costa Rica, the President of the Conference, such as the one backed by more than 3,000 scientists from 80 countries, including 28 Nobel Laureates, who expressed their support to “ban the bomb.”



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The delegation of the International Peace Bureau, with the support of the Rosa Luxemburg Stiftung - NYC, actively contributed to the discussions. Reiner Braun, finalising a 6 weeks long tour of lectures in the whole United States, gave several lectures in New York Universities and IPB organised two side events during the Conference.

The first one addressed the need to develop a successful coalition toward the elimination of nuclear weapons, and the second one focussed on the content of the ban treaty, with the noticeable participation of Lou Maresca, ICRC legal advisor, and Sergio Duarte, the UN High Representative for Disarmament Affairs with the United Nations Office for Disarmament Affairs (2007-2012). Mr Duarte, invited by IPB to participate in these negotiations and in IPB events, pointed out that: “One of the major challenges for the universality and full effectiveness of a ban treaty is precisely how to design a mechanism that will ensure the possibility of late adherence by States currently under the “umbrella” of nuclear-armed allies and ultimately by the possessors themselves.”¹

¹ M. Sergio Duarte article:

<http://www.indepthnews.net/index.php/nuclear->



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Indeed, the main purpose of the ban treaty is to establish a clear legal standard rejecting nuclear weapons on humanitarian grounds and reaffirming already existing international law. It will enable States to formalize such a rejection besides enhancing the stigma against those weapons. It will reaffirm their unacceptability and incompatibility with universally recognized principles of international law. The ban is not the elimination of nuclear weapons but it will create a new ground to empower civil society and international organisations, together with governments parties to the treaty.

With NATO's expansion to Russia's borders and the Ukraine crisis, the U.S. and Russia who seem to return to a Cold War spirit, India and Pakistan continued exchange of threats and the global trend of nuclear "modernization", the mobilization of civil society is more than ever needed especially in states involving nuclear weapons in their security doctrines.

The risk of a nuclear detonation by accident or to miscalculation or terrorist attack must also be highlighted. Experts state that "luck" has been the only reason why no major accident has already happened. A new scary study by UNIDIR is now available and should be widely spread [Understanding nuclear weapons risks](#).

Several important dates are coming to build people's mobilisation, the first Prepcom of the Non Proliferation Treaty in Vienna from May 2-12

[weapons/1059-banning-nuclear-weapons-an-
auspicious-start](#)

and the next round of negotiations in New York, with a global [Women's March to ban the bomb](#) on June 17th, will provide the opportunity to organise actions everywhere in the world.

As quoted by Mr Duarte, Judge Cançado Trindade said during the case against the nine countries possessing nuclear weapons in front International Court of Justice by the Marshall Islands: "A world with arsenals of nuclear weapons, like ours, is bound to destroy its past, dangerously threatens the present, and has no future at all. Nuclear weapons pave the way into nothingness."

IPB has organised the events with partner organisations, but we would like to give special thanks to the

Rosa Luxemburg Stiftung – New York Office
for the support of our two side events and the reception.



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IALANA DISCUSSION PAPER

SELECTED ELEMENTS OF A TREATY PROHIBITING NUCLEAR WEAPONS

March 24, 2017

In this paper², the International Association of Lawyers Against Nuclear Arms (IALANA) discusses selected proposed elements of a treaty prohibiting nuclear weapons, leading to their total elimination, to be negotiated this year. The elements discussed are ones of special concern to IALANA; we have made no effort to provide a comprehensive catalogue, and there are many important elements not discussed here.³ IALANA draws in particular on our experience, with colleagues from other organizations,⁴ in the drafting of the Model Nuclear Weapons Convention⁵.

For each element, possible language is included, followed by commentary. The language is offered mostly for the purpose of explaining the element in question in a concrete manner, by way of illustration. IALANA may very well modify or expand upon this discussion as the negotiations unfold. IALANA appreciates the openness of governments to the input and participation of civil society organizations.

Preambular elements related to affirmation of existing international law

1) Affirm the illegality of use of nuclear weapons under customary international law

Possible language: Affirming that the use of nuclear weapons is contrary to international law, in particular international humanitarian law; international human rights law; and international environmental law.

Commentary: Because of their very nature, the use of nuclear weapons is illegal under customary international law. They cannot be used in compliance with fundamental principles protecting civilians and neutral states from the effects of warfare, protecting combatants from unnecessary suffering, protecting the environment from severe and irreversible damage, and safeguarding the interests of future generations. Use of nuclear weapons would constitute war crimes under the Rome Statute of the International Criminal Court, and, in many circumstances, crimes against humanity as well.

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³ For a survey, see ILPI and UNIDIR, A Prohibition on Nuclear Weapons: A guide to the issues (February 2016).

⁴ International Physicians for the Prevention of Nuclear War and International Network of Engineers and Scientists Against Proliferation.

⁵ http://inesap.org/sites/default/files/inesap_old/mNWC_2007_Unversion_English_N0821377.pdf. See also A/AC.286/WP.11, 24 February 2016, Model nuclear weapons convention, submitted by Costa Rica and Malaysia to the OEWG. For background, see <http://lcn.org/mnwc/index.htm>. For commentary, see Securing Our Survival: The Case for a Nuclear Weapons Convention (2007), at <http://www.lcn.org/pubs/2007-securing-our-survival.pdf>.

The 1996 Advisory Opinion of the International Court of Justice supports this assessment. The Court stated that “the use of [nuclear] weapons in fact seems scarcely reconcilable with respect for [the strict] requirements” of “the principles and rules of law applicable in armed conflict – at the heart of which is the overriding consideration of humanity.”⁶ So do many General Assembly resolutions. The resolution entitled “Ethical imperatives for a nuclear-weapon-free world,” adopted in 2015 and again in 2016,⁷ declares: “Given the humanitarian impact of nuclear weapons, it is inconceivable that any use of nuclear weapons, irrespective of the cause, would be compatible with the requirements of international humanitarian law or international law, or the laws of morality, or the dictates of public conscience.” A 2011 resolution of the International Red Cross and Red Crescent Movement “finds it difficult to envisage how any use of nuclear weapons could be compatible with the rules of international humanitarian law.”⁸ The Vancouver Declaration, released by IALANA and The Simons Foundation in 2011,⁹ states that nuclear weapons cannot be employed in compliance with the rules of international humanitarian law because their blast, heat, and radiation effects are uncontrollable.

It is imperative that the preamble include an affirmation of the illegality of use of nuclear weapons under existing law to reinforce the norm of non-use of nuclear weapons. It also is essential to avoid any implication that the fact that the prohibition of use contained in the operative portion will apply only to states parties implies that non-states parties are not subject to any such rule.

2) Affirm the illegality of the threat of use of nuclear weapons under the United Nations Charter and other international law

Possible language:

Recalling that the United Nations Charter obligates all Members of the United Nations to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Affirming that the threat of use of nuclear weapons is contrary to the United Nations Charter and to international humanitarian law.

Commentary: Any threatened use of nuclear weapons would be a threat of force contrary to the UN Charter prohibition of threat of force inconsistent with the purposes of the United Nations; it also likely would be either an aggressive or disproportionate threat in violation of Article 2(4) or the conditions, necessity and proportionality, for the lawful exercise of self-defense pursuant to Article 51. Such a threat would also violate international humanitarian law in light of the ICJ’s statement that, “If an envisaged use of weapons would not meet the requirements of humanitarian law, a threat to

⁶ Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226 (hereafter “Nuclear Weapons Advisory Opinion”), para. 95.

⁷ A/RES/71/55, 5 December 2016, adopted by a vote of 130 to 37, with 15 abstentions.

⁸ Council of Delegates of the International Red Cross and Red Crescent Movement, “Resolution 1, Working Towards the Elimination of Nuclear Weapons,” November 26, 2011, <http://www.icrc.org/eng/resources/documents/resolution/council-delegates-resolution-1-2011.htm>.

⁹ <http://www.lcnp.org/wcourt/Feb2011VancouverConference/vancouverdeclaration.pdf>. The declaration was signed by many international lawyers and others around the world. For a list of signatories, see http://www.lcnp.org/wcourt/VanDecl_Signatories_Feb15_2013.docx.

engage in such use would also be contrary to that law.”¹⁰ It additionally could violate specific provisions of international humanitarian law, namely the prohibition of threatening that there shall be no survivors¹¹ and the prohibition of “acts or threats of violence the primary purpose of which is to spread terror among the civilian population”.¹²

It is important to include a reference to the unlawfulness of threatened use of nuclear weapons under existing international law in the preamble due to the centrality of ‘nuclear deterrence’ to military postures and the role that specific threats could have in leading to actual employment of nuclear weapons. Delegitimizing ‘nuclear deterrence’ is essential to achieving the abolition of nuclear weapons.

3) Affirm the obligation to negotiate nuclear disarmament

Possible Language:

Recalling the obligation set forth in Article VI of the Nuclear Non-Proliferation Treaty to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

Recalling also the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control, and *affirming* that the obligation is universal and unconditional.

Commentary: It is important to reference the ICJ’s conclusion regarding the nuclear disarmament obligation as well as Article VI of the NPT. First, the ICJ provided an authoritative interpretation of Article VI, consistent with, inter alia, NPT Review Conference adoption of “an unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals”. Second, the clear import of the ICJ’s conclusion, as the UN Secretary-General has recognized,¹³ is that the obligation applies universally as a matter of customary international law, thus applying to non-NPT states. Reference to the ICJ’s conclusion would in no way undermine reference to NPT Article VI and to commitments made in NPT Review Conferences if those are included.

4) Recognize that a subsequent disarmament agreement or agreements will be needed

Possible language: Recognizing that measures additional to this Treaty, both practical and legally binding, for the irreversible, verifiable and transparent destruction of nuclear weapons will be needed in order to achieve and maintain a world without nuclear weapons, and regarding this Treaty as a step toward a comprehensive, legally binding agreement on nuclear disarmament.

¹⁰ Nuclear Weapons Advisory Opinion, para. 78.

¹¹ Protocol I, Geneva Conventions, Article 40: “It is prohibited to order that there shall be no survivors, to threaten an adversary therewith or to conduct hostilities on this basis.”

¹² Protocol I, Geneva Conventions, Article 51(2).

¹³ UN Secretary-General, Message to the Vienna Conference on the Humanitarian Impact of Nuclear Weapons, Vienna, 8 December 2014: “No country disputes the desirability of achieving a nuclear- weapon-free world. After all, this was the very first objective identified by the United Nations General Assembly. The universal acceptance of this goal led the International Court of Justice to determine that the disarmament obligation transcends any treaty and is a requirement under customary international law.”

Commentary: The first part of the proposed language is based on a preambular provision of the General Assembly resolution deciding to commence negotiations on a prohibition treaty.¹⁴ The second part recognizes that a comprehensive agreement will be needed to achieve and maintain the elimination of nuclear weapons.

5) Reaffirm the Martens Clause and recognize the role of public conscience and principles of humanity

Possible language:

Reaffirming that in cases not covered by this Treaty or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law, derived from established custom, from the principles of humanity and from the dictates of public conscience.

Stressing the role of public conscience in furthering the principles of humanity as evidenced by the call for a total ban of nuclear weapons and recognizing the many efforts to that end undertaken over several decades, in particular by the Hibakusha and other victims of nuclear weapons detonations and testing around the world.

Commentary: The first paragraph is the modern version of the Martens Clause, which was included in the Oslo Convention and also in Protocol I to the Geneva Conventions. It is important to include this in view of the fact that nuclear-armed states and their allies may not join the prohibition treaty at the outset. The second paragraph is based upon a preambular provision in the Ottawa Mine Ban Convention. A recognition of the key part played by the Hibakusha and other victims in giving voice to reasons of conscience for prohibiting nuclear weapons is essential, and it also reinforces and makes concrete the Martens Clause.

6) Underline the humanitarian consequences of nuclear explosions

Possible language:

Deeply concerned about the catastrophic humanitarian consequences of any use of nuclear weapons.

Recalling that the Treaty on the Non-Proliferation of Nuclear Weapons, which serves as the cornerstone of the nuclear non-proliferation and disarmament regime, was negotiated considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples.

Commentary: These provisions appear in the preamble of A/RES/71/258, the resolution deciding to commence negotiations on a prohibition treaty. The following observation of the Vancouver Declaration¹⁵ is pertinent here as well as in relation to proposed preambular element (5): “Reasons

¹⁴ A/RES 71/258, 23 December 2016, Taking forward multilateral nuclear disarmament negotiations. Access at <http://research.un.org/en/docs/ga/quick/regular/71>.

¹⁵ Supra n. 8.

advanced for the continuing existence of nuclear weapons, including military necessity and case-by-case analysis, were once used to justify other inhumane weapons. But elementary considerations of humanity persuaded the world community that such arguments were outweighed by the need to eliminate them. This principle must now be applied to nuclear weapons, which pose an infinitely greater risk to humanity.”

Principles and objectives

Duty to respect and ensure respect for international humanitarian law

Possible language:

Recalling the duty of States to respect and ensure respect for international humanitarian law.

Commentary: This is a principle at the foundation of the humanitarian initiative leading to the negotiation of this treaty and should be included. It is drawn from Common Article 1 of the Geneva Conventions, today considered customary in nature.

Operative provisions

1) Basic obligations

Possible language:

A. Each State Party to this Treaty undertakes never under any circumstances:

- a. To use nuclear weapons;
- b. To threaten to use nuclear weapons;
- c. To engage in any activity related to any military or other preparations to use nuclear weapons;
- d. To encourage or authorize, directly or indirectly, use and threatened use of nuclear weapons;
- e. To design, develop, test, produce, otherwise acquire, possess, deploy, stockpile, maintain, retain, or transfer nuclear weapons;
- f. To develop, test, produce, otherwise acquire, possess, stockpile, retain, transfer or use [proscribed nuclear material];
- g. To design, develop, test, produce, otherwise acquire, possess, deploy, stockpile, maintain, retain, or transfer nuclear weapons delivery vehicles;
- h. To conduct nuclear weapons research, with the exception of research related to nuclear disarmament and to assistance to victims of nuclear weapons;
- i. To permit the stationing or transit of nuclear weapons in their territory including their airspace and waters, including by ships or aircraft carrying nuclear weapons;
- j. To assist, encourage, induce or permit, in any way, directly or indirectly, anyone to engage in any activity prohibited under this Treaty;
- k. To finance anyone to engage in any activity prohibited under this Treaty.

Commentary: These provisions are mostly drawn from the Model Nuclear Weapons Convention. Because initial members of a prohibition treaty are likely to be states not possessing and not reliant on nuclear weapons, the prohibitions may seem unnecessarily specific. However, the prohibition treaty can help set the template for future disarmament agreements, and itself may serve as the foundation for denuclearization by some states now possessing or reliant upon nuclear weapons which accede to the treaty.

There is no prohibition of threatened use in the Chemical Weapons Convention and other treaties prohibiting and eliminating weapons. However, as with respect to the preamble, including threat in the operative portion of the prohibition treaty is important because of the centrality of ‘nuclear deterrence’ to military postures and the need to undermine its legitimacy as well as to prevent specific threats leading to use. Including it also helps make clear that members of the prohibition treaty may in no way cooperate with reliance on nuclear weapons.

The prohibition of research, design and development of nuclear weapons is more extensive than the prohibition in NPT Article II of manufacture or acquisition of nuclear weapons. Including these elements in the prohibition treaty underlines that there can be no cooperation with such activities carried out by nuclear-armed states, and helps set the template for future disarmament agreements and possible accession by nuclear-armed states. It should be made clear that the prohibition of design, research, and testing of nuclear weapons includes activities such as supercomputer simulations; non-nuclear explosive testing, as by hydrodynamic and X-ray facilities; laser fusion; sub-critical nuclear explosive testing; and so on – the whole suite of activities that goes under the name “Stockpile Stewardship” in the United States.¹⁶ This perhaps can be accomplished by way of definition of terms.

Regarding the prohibition of activities relating to proscribed nuclear materials, there is of course existing monitoring of fissile materials by the IAEA pursuant to safeguards agreements and the NPT. It would be desirable for the prohibition treaty at a minimum to reinforce the obligations to accept such monitoring. It should also be considered whether adherence to the Additional Protocol or comparable standard should be required or encouraged by the treaty.

Regarding the prohibition as to nuclear weapons delivery vehicles, for states that have never had nuclear weapons, this prohibition may seem unnecessary and also unduly complicated. However, based on experience to date, for a successful global enterprise of eliminating existing nuclear arsenals, control and/or elimination of delivery systems developed for nuclear weapons will be necessary. This was the assumption of the drafters of the Model Nuclear Weapons Convention. Again, for the purpose of setting the template for future disarmament agreements and possible accession of nuclear-armed states, the prohibition treaty should address delivery vehicles. If inclusion of a prohibition is not desired, the question could be the subject of a preambular provision. One possibility would be to draw upon the NPT preambular paragraph which refers to “the elimination from national arsenals of nuclear weapons and the means of their delivery”.

2) Prohibitions as to persons

Possible language: Each State Party shall take all appropriate legal, administrative and other measures, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction and control.

¹⁶ See reports cited at <https://nnsa.energy.gov/ourmission/managingthestockpile/ssmp>

Commentary: This is a concise statement of implementation measures that should be required of states parties. It is taken from the obligations concerning “National implementation measures” contained in Article 9 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, and the similarly numbered Article 9 of the Convention on Cluster Munitions.

This fundamental obligation includes the requirement that parties penalize what is done on their territories by anyone, or anywhere in the world by their nationals and permanent residents. This could be spelled out in more detail. For example, it could be made clear that “persons” includes “legal” (or “juridical”) persons, notably corporate entities. It could be added that criminal responsibility extends not only to the actual perpetrators but also to those who order or solicit offenses, to those who aid, abet, or otherwise assist (including those providing financing). Those who attempt to do such acts could be included. (Some broader forms of wording along these lines are contained in paragraphs 22-24 of the Model Nuclear Weapons Convention and Article 25 (3) of the Rome Statute of the International Criminal Court.) Obligations of parties to assist one another in prosecutions by means of extradition and mutual legal assistance could be included, like those in the international terrorism conventions. Questions of universal jurisdiction, or at least transferred jurisdiction among all the parties (“universal jurisdiction *inter partes*”) should be considered.

3) Promotion of aims of the treaty; non-cooperation with threat or use of nuclear weapons

Possible language: Each State Party shall encourage States not party to this Treaty to ratify, accept, approve or accede to this Treaty, with the goal of attracting the adherence of all States to this Treaty.

Each State Party shall promote the norms affirmed by this Treaty and shall make its best efforts to discourage States not party to this Treaty from possessing, using, or threatening the use of nuclear weapons.

Each State Party undertakes not to request and not to accept the use or threatened use of nuclear weapons on its behalf by a non-State Party, and not to encourage or authorize, directly or indirectly, use and threatened use of nuclear weapons.

Commentary: The first two provisions are based upon Article 21, paragraphs 1 and 2, of the Convention on Cluster Munitions.

The third provision is drawn in part from the Treaty of Tlatelolco, Article 1(2): “The Contracting Parties also undertake to refrain from engaging in, *encouraging or authorizing, directly or indirectly*, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon.” (Emphasis supplied.) The prohibition of encouragement or authorization of use and threatened use can also be placed in a Basic Obligations section (see 1(A)(d), above); the prohibition of assistance to anyone engaging in an activity prohibited by the treaty (see 1(A)(j), above) also goes to this point. The above language, however, makes the point absolutely clear.

Why are such provisions needed? A key strategic issue is whether a state party may be defended by a non-party by means of use or threat of use of nuclear weapons. That issue should be squarely faced.

This is true of all states parties (who knows what future circumstances will be?) but particularly those that are presently in alliances with nuclear-armed states. A state party could be in an alliance and not

participate at all in nuclear arrangements but still in general and in specific instances be defended in this way – unless it was explicitly ruled out by the ban treaty. In ruling it out, it would be important to include threat as well as use, due to its key role in alliances and ‘nuclear deterrence’.

4) Provision for participation by states possessing nuclear weapons

Possible language: A State possessing nuclear weapons is eligible to [join] the Treaty when the State has assumed a legally binding, time-bound obligation verifiably and irreversibly to eliminate its nuclear arsenal.

Commentary: Probably the prohibition treaty will be a step toward a comprehensive agreement on nuclear disarmament, as stated in proposed preambular element (3), in whose negotiation some or all nuclear-armed states would participate. However, the possibility that one or more nuclear-armed states will decide to join the ban treaty should be explicitly provided for. The obligation to eliminate the arsenal could be entered into in various ways. It could be an agreement with the members of the ban treaty or perhaps with a body of the ban treaty. It could be an agreement among (some) nuclear-armed states. It could perhaps even be a unilaterally assumed legal obligation, as the International Court of Justice said could be done in the *Nuclear Tests* case. Presumably the obligation and a plan and schedule for disarmament would have to be approved in some fashion by members or a body of the ban treaty. Application of certain provisions of the treaty, such as the prohibition of possession of nuclear weapons, might have to be suspended while the plan is implemented. All of this would require some elaboration in the treaty.

5) Administrative capability

Possible language: A [secretariat] shall be established. Its functions include: promotion of the Treaty and its aims; preparation of meetings of States Parties; assistance to States Parties in meeting their obligations, including with national measures; fostering of research and debate about nuclear disarmament, with provision for civil society involvement; facilitation of accession to the Treaty by States which are ending their possession of or reliance upon nuclear weapons.

Commentary: This approach assumes that an administrative body, however designated (secretariat, support unit, etc.), for the treaty would be modest, at least to begin with. If negotiators so desire, a more ambitious approach could be taken. An agency could be established that would undertake, e.g., the following additional tasks, or at least arrange for and coordinate them: track and report data relating to nuclear weapons in the world and related matters, thus providing the first official international body to do so; monitor and verify the obligations not to research, design, develop, test, produce, acquire, possess and deploy nuclear weapons; monitor and verify elimination of nuclear arsenals by nuclear-armed states wishing to join the treaty.

Whatever the scope of an administrative body, “promotion of the Treaty and its aims” – one of the aims being the achievement and maintenance of a world free of nuclear weapons – could encompass proactive measures, even innovative ones. Thus review meetings of state parties could adopt positions

and undertake initiatives as to emerging developments, and direct the administrative body to present the positions and initiatives to appropriate UN bodies, NPT meetings, or particular states.

A treaty administrative body, together with UN bodies like UNODA and UNIDIR, could promote research and provide fora for discussion, ranging from publications to special meetings to side events at regular meetings of treaty parties, on topics ranging from the dangers of new arms racing and the interaction of nuclear, conventional, cyber, and electronic warfare to citizen and open-source verification techniques. Regular meetings of the states parties and an active administrative capability also could provide a crucial nexus for the exchange of ideas between states committed to nuclear disarmament and civil society, and for the systematic collation and publication of research and information about nuclear disarmament. These kinds of efforts would be limited only by the resources and imagination that the treaty parties are willing to put into them, and by their openness to encouraging participation by civil society. This latter element should include active efforts to promote participation by civil society voices seldom heard from in existing disarmament fora, particularly those from the global South.

6) Obligations under existing international law

Possible language: Nothing in this Treaty shall in any way limit or detract from the obligations assumed by a State Party under international law, in particular the Nuclear Non-Proliferation Treaty, the regional Nuclear Weapon Free Zone treaties, the Comprehensive Nuclear-Test-Ban Treaty, other legal instruments relating to nuclear weapons, and international humanitarian law.

Commentary: Such a provision is needed *inter alia* because a common objection to a prohibition treaty is that it will undermine the NPT, and because of the concern that states relying on nuclear arms could assert that the fact that only some states are parties to the treaty indicates that its obligations as to non-threat and non-use of nuclear weapons are not universal.

7) Rights of victims

Possible preambular language:

Recognising the catastrophic harm, including transgenerational health effects, suffered by victims of nuclear explosions and testing, and *mindful* of the need to adequately address the rights and needs of victims,

Resolved to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration, of victims of nuclear weapons,

Recognising the need to provide age- and gender-sensitive assistance to victims of nuclear weapons and to address the special needs of vulnerable groups,

Recognising the devastating impact of nuclear explosions on the capacity of an affected State Party to provide adequate immediate and long-term assistance to victims, and *stressing* the need for international cooperation and assistance in providing assistance to victims,

Convinced that an essential element of remedy for the Hibakusha and other victims of nuclear weapons detonations and testing around the world is a guarantee of non-repetition through achievement of a world free of nuclear weapons.

Commentary: The extent to which the treaty should address assistance to victims is uncertain. Among other things, the treaty aims to prevent future use of nuclear weapons altogether, and issues relating to victims of testing and use of nuclear weapons going back to 1945 are complex and the implications of commitments with respect to such victims are far-reaching. However, in particular due to the humanitarian thrust of the initiative leading to negotiation of a prohibition treaty, it would make sense that there at least be acknowledgement of the rights of victims. Accordingly, at this point we have provided possible language for the *preamble*.



ITALY AND THE BAN TREATY *continued*

Lisa Clark

Just before the 27-31 March first session of the Ban Treaty conference, I wrote a short piece on the actions promoted by our coalition called "*Italia, Ripensaci!*", which means "think it over and change your mind, Italy!". Unfortunately, as I wrote, Italy has not changed her mind, despite the mistake in the final voting late in the evening of 23 December last. Italy meant to vote against the resolution convening the Ban Treaty conference and has since had her positive vote changed in the proceedings.

However, Italy was not among the countries listed by US Ambassador to the UN Nikki Haley as backing her boycott, in the press conference on 27 March. So, it would appear that Italy and the Netherlands, as well as sharing their seat on the Security Council (one year each, Italy in 2017), will also be two NATO countries that will be obliged by their citizens to - at least - not boycott the Ban Treaty conference.

For our coalition made up of the Italian Disarmament Network (about 30 organizations) and the Senzatomica Committee (a campaign that has produced a nuclear disarmament exhibition already seen by nearly half a million people in dozens of Italian cities), this is not enough! We want the Italian government to change its mind and allow Italy to become an active participant in the Ban Treaty process. So our actions continue.

In the press, our positions have been given considerable space in some national dailies (especially the influential *Avvenire*, published by the Italian Bishops' Conference, since the Holy See's statement was welcomed by us and all disarmament activists everywhere). We joined the ICAN action leading up to the 27 March conference session and took photos with activists in front of the USAF base at Aviano and

the Italian Air Force base at Ghedi, to be shown together with those taken in front of Volkel, Kleine Brogel and Büchel, the 5 European bases where US nuclear weapons are still stored.

On 2 April the annual Lent peace walk from Pordenone to Aviano, which brings together many peace activists, mostly from Catholic groups, concluded in front of the USAF base at Aviano: in the closing speech I recounted the results of the first week of the Ban Treaty conference and announced the need for further mobilization.

The Diocese of Concordia-Pordenone, in whose territory Aviano is located, launched an initiative: on 2 July (the last Sunday before the conclusion of the Ban Treaty conference) all its churches and all its faithful are called upon to organize a day of prayer and reflection on global nuclear disarmament and abolition. We shall use the upcoming weeks and months to extend this to other Diocese in Italy and in other countries.

Meanwhile, we shall also continue with our events and actions aimed at increasing the awareness of Italian civil society, so that our requests can be made clear to the government by as broad as possible a range of individuals and organizations. On 13 May we shall be welcoming the Peace Boat on its 10th "[Global Voyage for a Nuclear-Free World](#)", as it comes to Italy. Local groups from our national coalition, together with local government officials and parliamentarians, will spend the day in Cagliari, Sardinia, with the Hibakushas on this journey. It will be a further opportunity to reaffirm that the vast majority of Italians want to be part of the global process working towards nuclear disarmament, and insist that the national

government reflects this position by participating in the Ban Treaty conference.

And, before that, we will also be in Vienna at the PrepCom, where Italian civil society and NGOs will have another opportunity to say clearly that

they expect their government to participate in a process that is fully part of its cultural tradition, as was shown in her leadership on previous world-changing disarmament campaigns such as those banning landmines and cluster munitions.



IPB will continue to closely observe and as much as possible participate in the Ban Treaty Negotiations. We will participate in the second round of negotiation in June/July this year.

Our activities, expectations and position will be communicated via newsletters, reports, press releases etc.

The 2017 Global Days of Action on Military Spending (GDAMS) are approaching

This year, multiple worldwide actions will be organized | 18 - 28 April



All over the world, governments are pushing for an increase in military spending. For example, in the United States, President Donald Trump has proposed an increase of \$54 billion (10% of the annual allocation) to be paid for by cutting diplomatic and foreign aid. All European governments in NATO agreed twice in Wales and Warsaw to spend 2% of their GDP on defense while pledging in parallel, to create new funding systems for military research and development. For its part, China has declared it will increase its military budget by 7% in 2017. Among other top military spending countries, Saudi Arabia and Japan are also planning to increase their military expenditure. Moreover, President Trump and the U.S. administration are pushing in the same direction, although this is not a new phenomenon. With this scenario there are plenty of new reasons to renew our call for a cut on military spending (based upon SIPRI data) and to maintain the human security approach that many would prefer to see. [On the GCOMS 2017 Statement](#), we ask again to the governments and institutions to rethink the concept of security and redirect money to social needs.

We have now more than [60 planned actions in 17 countries](#) and many others will be added in the upcoming days, but more people and more organizations should be involved and we hope that a global debate on the counterproductive effects of the current military spending will be established. Please, publicize this message and the GDAMS campaign. There are many ways to act. For example, [our selfie campaign](#): take a selfie and post with caption describing in which way you would like to redirect the money recovered from a reduction of military spending. Participate in [Thunderclap](#), signing and sharing the cause and [publish a post](#) on military spending, NATO plans and SDG developments on [Twitter](#) and [Facebook](#) and be sure to tag @demilitarizeday. To propose new activities, please contact coordination.gcoms@ipb.org.

JOIN THE #NO\$54BILLIONFORWAR CAMPAIGN

Our environmental and human needs are desperate and urgent. We need to transform our economy, our politics, our policies and our priorities to reflect that reality. That means reversing the flow of our tax dollars, away from war and militarism, and towards funding human and environmental needs, and demanding support for that reversal from all our political leaders at the local, state and national levels.

We and the movements we are part of face multiple crises. Military and climate wars are destroying lives and environments, threatening the planet and creating enormous flows of desperate refugees. Violent racism, Islamophobia, misogyny, homophobia and other hatreds are rising, encouraged by the most powerful voices in Washington DC.

President Trump plans to strip \$54 billion from human and environmental spending so as to increase already massive spending on the military. The plan raises Pentagon spending to well over 60 cents of every discretionary dollar in the U.S. budget -- even as Trump himself admits that enormous military spending has left the Middle East "far worse than it was 16, 17 years ago." The wars have not made any of us safer.

Washington's militarized foreign policy comes home as domestic law enforcement agencies acquire military equipment and training from the Pentagon and from military allies abroad. Impoverished communities of color see and face the power of this equipment regularly, in the on-going domestic wars on drugs and immigrants. This military-grade equipment is distributed and used by many of the same private companies that profit from mass incarceration and mass deportation.

Using just a fraction of the proposed military budget, the US could provide free, top-quality, culturally competent and equitable education from pre-school through college and ensure affordable comprehensive healthcare for all. We could provide wrap-around services for survivors of sexual assault and intimate partner violence; replace mass incarceration with mass employment, assure clean energy and water for all residents and link our cities by new fast trains. We could double non-military U.S. foreign aid, wipe out hunger worldwide. The list of possibilities is long.

Instead, the Trump administration plans to take much of their \$54 billion gift for the Pentagon from the budgets of the Environmental Protection Agency (even threatening to shut down its already under-funded environmental justice office), the Department of Health and Human Services (slashing family planning and anti-violence-against-women programs), from the State Department (thus privileging war over diplomacy), and foreign aid (so that the wealthiest country in human history turns its back on the world's most desperate).

Among those most desperate are the 24 million refugees who have been forced out of their homes and countries, more than at any time since World War II. Instead of cruel Muslim bans and cuts to the already meager number of refugees allowed into the U.S., we should be welcoming far more. Alleviating the refugee crisis also means working to end, rather than escalate, the wars that create refugees, and supporting human rights defenders in their home communities. That means more diplomacy and foreign aid, not more military spending.

With its hundreds of billions of un-audited dollars, the military remains the greatest consumer of petroleum in the United States, and one of the world's worst polluters. The US needs new green, sustainable jobs across our economy targeted to people facing the highest rates of unemployment and

low wages. Military spending results in an economic drain. Clean energy production creates 50% more jobs than the same investment in military spending.

The U.S. military also serves as a security force protecting the extraction and transport of fossil fuels domestically and from the Middle East and other parts of the world. U.S. military force thus enables the continued assault on the planet and some of its most impoverished inhabitants by ensuring the supply of cheap fossil fuels, all while subsidizing some of the largest corporations in the world.

A December 2014 Gallup poll showed people in 65 nations considered the United States far and away the largest threat to peace in the world. If the United States was known for providing clean drinking water, schools, medicine, and solar panels to others, instead of attacking and invading other countries, we would be far more secure and face far less global hostility.

We can do this. Reverse the flow. No walls, No War, No Warming!

[IF YOU AGREE, PLEASE SIGN AND
SHARE<<https://docs.google.com/forms/d/e/1FAIpQLSfbvPOXAEkF9K-Ix6XihmoOKLjHBUeMIP5lod-3je22GTyCsw/viewform>>]

Adam Shah - Senior Policy Analyst, Jobs With Justice

Basav Sen - Climate Justice Project Director, Institute for Policy Studies

Beverly Guy-Sheftall - Professor, Spelman College

Dara Baldwin - President and CEO of DMADRINA, LLC, Social Justice Policy expert

David Swanson - author, radio host, co-founder of WarIsACrime.org & World Beyond War

Eddie S. Glaude Jr. - Princeton University

Eve Ensler - V-Day and One Billion Rising

Jamie DeMarco - Program Assistant for Nuclear Disarmament & Pentagon Spending, Friends Committee on National Legislation

Jane Fonda - actress & activist

Jo Comerford - Campaign Director, MoveOn.org

Jodie Evans - CODEPINK

John Cavanagh - Director of the Institute for Policy Studies

Josh Ruebner - Policy Director, US Campaign for Palestinian Rights

Kathy Spillar - Feminist Majority

Kevin Martin - President, Peace Action and the Peace Action Education Fund

Laura Flanders - host of The Laura Flanders Show

Lindsay Koshgarian - Research Director, National Priorities Project

Lindsey Allen - Executive Director, Rainforest Action Network

Lukas Ross - Climate and Energy Campaigner, Friends of the Earth

Mab Segrest - Southerners on New Ground

Maggie Martin - Co-director of Iraq Veterans Against the War

Medea Benjamin - CODEPINK

Michael Eisenscher - US Labor Against the War

Michelle Alexander - author of The New Jim Crow: Mass Incarceration in the Age of Color Blindness

Murshed Zaheed - Vice President and Political Director, CREDO Mobile

Naomi Klein - author of This Changes Everything: Capitalism vs the Climate

Olivia Alperstein - Communications and Policy Associate, Progressive Congress

Opal Tometi - Executive Director, Black Alliance for Just Immigration; & Co-Founder, Black Lives Matter Network

Peter Buffett - American musician, composer, author and philanthropist

Phyllis Bennis - Fellow at the Institute for Policy Studies & Director of the New Internationalism Project

Rosa Clemente - 2008 Green Party VP candidate
Rebecca Vilkomerson - Executive Director, Jewish Voice for Peace
Reece Chenault - National Coordinator, US Labor Against the War
Saru Jayaraman-Co-Director at Restaurant Opportunities Center United (ROC-United)
Steph Guilloud - Project South
Stephen Miles - Director of Win Without War
Winnie Wong - co-founder, People for Bernie
Terry O'Neill - President, National Organization for Women
Zillah Eisenstein - writer, anti-racist feminist activist, national organizer--International Women's Strike/US



IPB Program – 1st Preparatory Committee of the NPT Review Conference

1 - 5 Mai | Vienna

NATO, NUCLEAR WEAPONS AND THE BAN TREATY?

Tuesday, Mai 2 | 1.25 -2.30 pm | ROOM M3

Chair: Arielle Denis, IPB

- Involving Parliamentarians in the ban negotiations (Massimo Artini, MP, Italy)
- New threats on Nuclear Weapons in the US (Joseph Gerson, AFSC-US, USA)
- The responsibility of scientists (Jürgen Scheffran, INES, Germany)
- Japan's contribution to mobilise public opinion (Hiroshi Taka, Gensuikyo, Japan)
- Building the momentum against nuclear weapons (Dave Webb, CND, UK)

Organised by IALANA Germany, INES, IPB, PAX

FIGHTING NUCLEAR WEAPONS IN EUROPE

Discussion between activists and experts

Thursday, Mai 2 | 3 – 6 pm | ROOM M3

Chair: Lucas Wirl, No-to-Nato Network

- Opening: NATO strategy on nuclear weapons nuclear programs and arms races (Jürgen Scheffran, INES)
- Kate Hudson, CND
- Alain Rouy, Mouvement de la paix
- Peter Becker, IALANA Germany
- Lisa Clark - IPB (Italy)

Organised by INES, IPB

NUCLEAR DANGER AND THE ROLE OF THE IAEA

Wednesday, Mai 4 | 2 – 9 pm | Wiener Rathaus, Stadtsenatssitzungssaal, Lichtenfelsgasse 2, 1010 Wien

A NUCLEAR WEAPONS FREE ZONE IN THE MIDDLE EAST

Friday, Mai 5 | 10am – 1pm | ROOM M3

- The Iran deal (Tarja Cronberg, PNND)
- The road toward a MENFZ (Sharon Dolev – Israeli Nuclear Disarmament Movement)
- How the ban treaty will impact the Middle East Nuclear free zone (Arielle Denis, IPB)
- Arab Human rights organisation (tbc)

Organised by INES, IPB, PNND

MISSILE DEFENSE IMPACT ON NUCLEAR DISARMAMENT AND SPACE WEAPONIZATION

Friday, Mai 5 | 5 – 7pm | ROOM M3

Chair: Amela Skiljan

Subrata Ghoshroy (USA)
