NPT Article VI provides that “cessation of the nuclear arms race” is to be achieved at an “early date” through good-faith negotiations. When the NPT was adopted, it was envisaged that the quantitative build-up and qualitative improvement of nuclear arsenals was to be ended prior to their elimination. The principal means were a ban on nuclear testing, a ban on production of fissile materials for nuclear weapons, and caps on nuclear arsenals. Non-nuclear weapon states also insisted that cessation of the nuclear arms race encompasses halting improvement of warheads and delivery systems.

While NPT nuclear-armed states have endorsed in principle the Comprehensive Test Ban Treaty (CTBT), fissile material cut-off treaty (FMCT), and capping and reducing nuclear arsenals, they have resisted specific commitments with respect to qualitative modernization. Thus the 2010 NPT Review Conference could only record the “legitimate interest” of non-nuclear weapon states in “constraining” development and improvement of nuclear arsenals.

The CTBT reinforces the NPT obligation of cessation of the nuclear arms race. Its preamble recognizes that ending nuclear testing will “constrain the development and qualitative improvement of nuclear weapons”. Also, the 2010 NPT Review Conference made a vague commitment to refrain from “the use of new nuclear weapons technologies” in connection with the CTBT.

The unanimously adopted Final Document of the General Assembly’s first special session on disarmament, held in 1978, holds that “it is essential to halt and reverse the nuclear arms race” and calls for agreements on “cessation of the qualitative improvement and development of nuclear-weapon systems.”

Under the fundamental legal principle of good faith, acts at cross-purposes with the achievement of agreed objectives are proscribed. Plans for replacement of nuclear forces decades into the future violate the principle of good faith; they erode the trust required to carry out the nuclear disarmament enterprise. Modernization of infrastructures for the purpose of making a build-up of nuclear forces possible also violates the principle of irreversibility adopted by NPT review conferences.

There is no international institutional mechanism for assessment of nuclear weapons programmes and the state of their compliance with international law. The establishment of such a mechanism would help develop reliable information and a shared understanding of applicable standards, and thus the trust and cooperation needed for a workable process of ending arms racing and effectuating disarmament.