

Negotiating a Nuclear Weapons Convention—Framework for a Nuclear-Weapons-Free World

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In the final speech of his term, former UN Secretary-General Kofi Annan reminded us that nuclear weapons “pose a unique threat to humanity as a whole.” Secretary-General Ban Ki-Moon has built upon the insights of his predecessor, calling the Model Nuclear Weapons Convention drafted by civil society “a good point of departure” for negotiations.

The Non-Proliferation Treaty (NPT), which has so far prevented the uncontrolled spread of nuclear weapons, is at a crossroads. We know that either the nuclear disarmament obligation contained in Article VI will be fulfilled without further hedging and excuses, or the whole non-proliferation regime will be at risk. The threat of nuclear war itself must be ended by a comprehensive and universal agreement banning nuclear weapons. Those who drafted the NPT in 1968 foresaw the need for complementary agreements both to curb proliferation and to bring about disarmament.

In 1996, the International Court of Justice affirmed a universal obligation to pursue and to conclude negotiations on nuclear disarmament in all its aspects under strict and effective international control. The United Nations General Assembly has repeatedly called for the fulfillment of that obligation through the commencement of negotiations that would culminate in a Nuclear Weapons Convention.

A proposal to begin deliberations on a Nuclear Weapons Convention was advanced at the 2000 NPT Review Conference by Malaysia and Costa Rica. In 2005 this proposal was developed in a follow-up working paper, which explored some of the elements that would be required to achieve and maintain a nuclear-weapons-free regime through the NWC, and related these to the 13-step action plan to which Member States had agreed in 2000. Then in 2007 Costa Rica and Malaysia submitted the Model NWC to the NPT PrepCom, as a framework for the complete abolition of nuclear weapons.

A Nuclear Weapons Convention would overcome the division between the camps that former Secretary-General Annan criticized by mandating the comprehensive goal of a world without nuclear weapons and specifying the means of its achievement by concrete measures and steps.

Far from being in competition with the NPT, the NWC would fulfill the promises contained in the Treaty. The Model NWC is neither more nor less than a comprehensive draft of the

international nuclear disarmament agreement required to achieve the nuclear-weapons-free world envisioned by the NPT.

An NWC is now the central aim, and a key rallying point, of most international NGOs working in the field of nuclear disarmament, and should also be the central objective of States, including those with nuclear weapons. Our purpose here is to advance that objective by addressing the concerns about the NWC commonly expressed by a small number of NPT States Parties.

Despite overwhelming support from mayors, parliamentarians, and other sectors of civil society from across the political spectrum, a small number of governments have continued to ignore or resist this blueprint for our survival. The reasons offered for this reluctance tend to be that the idea of a comprehensive agreement to eliminate nuclear weapons is premature; that shifting attention to an NWC now could undermine essential efforts to strengthen the NPT; and that practical results can only be obtained with a step-by-step approach.

We recognize that some countries are not yet prepared to abandon their nuclear weapons and doctrines for use, and that the NPT has been under enormous stress for several years and needs to be strengthened. The NGOs who support a Nuclear Weapons Convention, however, believe that there is a more constructive way to frame the debate about when and how to commence negotiations on an NWC.

There is No Reason to Delay Negotiations on a Comprehensive Agreement

One point raised by those who argue that negotiation of an NWC is premature is the need to achieve NPT universality before something more comprehensive can be proposed. This claim does not stand up to scrutiny. The nuclear weapon states that have never been Parties to the NPT — India, Pakistan, and Israel (with the DPRK as a special case) — refuse to join unconditionally as non-nuclear countries. From their perspective, the NPT is a discriminatory treaty that requires less of the five States that tested nuclear weapons prior to 1970 than it does of any others.

The Nuclear Weapons Convention provides a nondiscriminatory approach and opens the door for immediate engagement by the non-NPT nuclear weapon states. The expectation that India, Pakistan, and the DPRK could be persuaded to join (or rejoin) the NPT unconditionally as non-nuclear-weapon states is clearly unrealistic. The expectation that they would join negotiations on an NWC is not.

The argument that negotiations on an NWC would have little value without the participation of all the nuclear weapon states from the outset is overstated. It goes without saying that negotiations could not be concluded, and a Convention implemented, without universal participation. Some NWS might be reluctant to join negotiations unless all NWS participated and provided assurances of their intent to join the resulting nuclear abolition regime. Obtaining Israel's engagement, in particular, would probably require careful and extended diplomacy, and might have to come later in the process.

The NPT itself was concluded without the involvement of two nuclear-weapon states, China and France, and there is no reason why negotiations for an NWC could not at least commence

without the support of all nuclear-armed states. Indeed, there is no reason that a NWC could not be negotiated amongst the willing NWS and non-NWS with a provision that it only enter into force once all NWS have ratified.

When first advanced in 1996, the idea of an NWC may have seemed part of a distant future. That is no longer the case. Very prominent policy makers, politicians, and diplomats in the US and the UK from across the political spectrum have declared themselves abolitionists, stating that the goal of zero nuclear weapons must inform every incremental arms control and disarmament policy from now on. The US President, Barack Obama, has made the goal of a nuclear-weapons-free world a priority for his administration, and this goal was reiterated in a joint statement with Russian President Medvedev on April 1. There is thus a political opening to take a comprehensive approach to nuclear disarmament and to start the process for achieving a Nuclear Weapons Convention.

Such a process could begin with preparatory meetings, which would provide the opportunity for engagement with key nuclear weapon states, even those not prepared to join negotiations. Actual negotiations could start early in the process if the largest nuclear weapon states were prepared to join; or preparatory meetings could continue while efforts were made to build political will and confidence among key nuclear weapon states whose early participation is considered essential. Of course, one should not allow the preparatory process to continue indefinitely. At some stage a decision would need to be made as to whether key nuclear weapon states had made a sufficient commitment to the process to commence negotiations, or whether the preparatory process should be suspended in favor of some alternative approach. The very fact of starting a preparatory process for negotiations, however, would contribute to building the political momentum for actual negotiations.

The NWC and the NPT Are Mutually Reinforcing

In resubmitting the Model NWC to the NPT PrepCom in 2007, Costa Rica and Malaysia stated that “The Model Nuclear Weapons Convention expands on the 2000 NPT agreement in order to explore the additional elements that would be required to achieve and maintain a nuclear-weapon-free world.” Full compliance with Article VI will require the adoption of clear prohibitions on the use, threat to use, and acquisition of nuclear weapons, as well as negotiations on the phased reduction and elimination of stockpiles, and the establishment of mechanisms to verify and ensure compliance. On the non-proliferation side, the verification measures in the Model NWC are built upon the verification measures required by the NPT and implemented by the International Atomic Energy Agency, as well as those established by UN Security Council Resolution 1540, the International Convention on the Suppression of Acts of Nuclear Terrorism and the Comprehensive Test Ban Treaty.

The aim of NWC negotiations, therefore, is not to provide an alternative to the NPT, rather to develop an additional instrument that would build upon the NPT and other nuclear non-proliferation and disarmament measures. It would thus be sensible to connect NWC negotiations closely with the ongoing efforts to implement and strengthen the NPT.

Some have suggested that concentrating political attention on a new process would relieve the

nuclear-weapon states from the pressure to fulfill Article VI of the NPT. The opposite is far more likely to be the case. Negotiations for an NWC would focus political attention squarely on the requirements for implementation of the Article VI obligation.

The aforementioned treaties, along with those requiring bilateral arms reductions by the United States and Russia, have complemented the NPT by bringing us closer to realizing its object. Indeed, it might be said that, if the NPT is the “cornerstone” of the nuclear non-proliferation and disarmament regime, every treaty subsequently concluded has provided the mortar with which we can now secure the regime’s “capstone,” a Nuclear Weapons Convention.

The NPT does not have to be set aside in order to pursue the NWC. Rather, the disarmament and non-proliferation provisions of the NPT are the foundation of the Convention, and every measure taken to strengthen compliance with the NPT is a building block of the Convention.

Steps Within a Framework

Adopting a more comprehensive framework does not mean abandoning the step-by-step approach. Incremental steps are undoubtedly needed in order to build the confidence required for complete abolition. Near term steps such as the CTBT or a fissile materials production ban, which, looked at in isolation, can place some states at an apparent disadvantage, become more palatable in the context of a framework for the complete abolition and elimination of nuclear weapons.

The Model NWC has been designed to overcome the divide between incremental and comprehensive approaches to the NWF. Negotiating individual step goes hand in with negotiating the overall legal framework of the NWC, which balances the deficiencies of these steps. NWC negotiations can serve as an umbrella for negotiations on the individual steps, and need to adapt to changing circumstances. The relevant issues and concerns could be addressed in different negotiation fora, each having a different rate of progress. NGOs can support the negotiation process by simulating it and by discussing the best concepts and proposals.

With a vision for a global treaty and a commitment to reaching that goal, the obstacles can be overcome and the goal reached. The NWC approach contains that vision and allows for concrete steps along the way. Such an approach would necessarily build on the achievements of the NPT, and provide a way to overcome the problems that have prevented the full implementation of the Treaty.

Embracing the NWC approach would demonstrate a good faith commitment to fulfilling the obligation to achieve complete nuclear disarmament set down in the first resolution of the United Nations and given concrete expression in the NPT itself.