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Abolition 2000 NWC Reset: Frameworks for a Nuclear-Weapon-Free World

A working paper for the 10th NPT Review Conference

*Abolition 2000 Working Group on the UN Disarmament Agenda
and a Nuclear Weapons Convention²*

Introduction

States Parties to the NPT have an obligation under article VI of the NPT to end the nuclear arms race and pursue negotiations in *good faith* on nuclear disarmament. They have subsequently made commitments at the 1995 NPT Review and Extension Conference, and at the 2000 and 2010 NPT Review Conferences to implement this obligation in order to achieve a nuclear-weapon-free world.

The Russian war of aggression on Ukraine, with its attendant nuclear threats, brings into sharp focus the increasing risks of nuclear war by accident, miscalculation, crisis escalation and/or intent, that make the fulfilment of this obligation that much more urgent.

The final agreed document of the 8th Review Conference of States Parties to the Nuclear Non-Proliferation Treaty, adopted on May 28, 2010, included the commitment:

All States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons. The Conference notes the Five-Point Proposal for Nuclear Disarmament of the Secretary-General of the United Nations, which proposes inter alia the consideration of negotiations on a nuclear weapons convention, or a framework of separate mutually reinforcing instruments backed by a strong system of verification.”³

This discussion paper focuses on building the necessary framework to achieve and maintain a world without nuclear weapons. The paper:

- a) Explores the legal, technical and institutional measures and framework to facilitate the elimination of nuclear weapons, including to implement objectives of disarmament (stockpile reduction and destruction), verification, compliance, security and general governance;
- b) Considers existing mechanisms which could be used to meet some of these requirements, and ascertains what else might be required to fill the gaps;
- c) Explores possible modalities and approaches for filling these gaps, including possibilities of expanding the roles of existing mechanisms and/or establishing new mechanisms.

This paper is intended to raise crucial issues, ideas and questions. It does not attempt to comprehensively address these. The authors of the paper welcome feedback and engagement with

¹ Updated from the original version of this paper which was released on 24 March 2022.

² Abolition 2000 is an open, global network of civil society organizations working to achieve a nuclear-weapons-free world. Abolition 2000 was established in 1995 during the NPT Review and Extension Conference. Over 2000 organizations globally have endorsed Abolition 2000's principle call for the achievement of a nuclear weapons convention. The list of members of the working group who co-drafted this working paper are listed at the end of the paper.

³ NPT/CONF.2010/50, Conclusions and recommendations for follow-on actions, Section I B (iii) page 20.

[https://undocs.org/NPT/CONF.2010/50%20\(VOL.I\)](https://undocs.org/NPT/CONF.2010/50%20(VOL.I))

governments, experts and civil society representatives to take forward the commitment to collectively build the framework for a nuclear-weapon-free world.

a) A framework of legal, technical and institutional measures to facilitate the elimination of nuclear weapons

The 1995, 2000, and 2010 commitments must be reaffirmed and implemented in good faith by *all* states. It's time to refocus on a negotiated framework to achieve and maintain a nuclear-weapon-free world, and actions that can be taken, in particular, by the nuclear-armed and allied states.

There are a range of approaches to establishing such a framework.

The approach indicated by the States Parties to the NPT in 2010, i.e. '*a nuclear weapons convention or a framework of separate mutually reinforcing instruments backed by a strong system of verification*', is encapsulated in the proposal of a Nuclear Weapons Convention (NWC) as a progressive comprehensive approach to achieving a nuclear-weapon-free world.⁴ This approach involves engagement of nuclear armed and allied states in a negotiated process to progressively reduce nuclear weapons stockpiles⁵ and phase out reliance⁶ on nuclear weapons, while at the same time building confidence and security through the establishment of effective verification, compliance and conflict resolution mechanisms.

The Model NWC, circulated as a UN Document in 2007⁷ and submitted to the 2010 NPT Review Conference,⁸ outlines in detail such a progressive, comprehensive framework of legal, technical and institutional measures to achieve a nuclear-weapon-free world. That framework would apply universally, capturing all nuclear-armed states, currently the five acknowledged by the NPT (China, France, Russia, UK, US) and the four outside the NPT (DPRK, India, Israel, and Pakistan).

The 2007 Model NWC is an updated and revised version of the first 1997 Model NWC.⁹ It was drafted following the agreement of States Parties to the NPT in 1995 that, among the measures whose achievement was "*important for the full realization and effective implementation of Article VI*", was "*[t]he determined pursuit by the nuclear-weapon States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goals of eliminating those weapons.*"

The 2007 Model NWC was also submitted to the UN Open Ended Working Group on Taking Forward Multilateral Negotiations on Nuclear Disarmament in 2016.¹⁰

⁴ A 'progressive, comprehensive' approach means that the final result is a comprehensive convention or package of agreements that provides for the complete elimination of nuclear weapons under effective verification and control, but that the achievement of this could be undertaken in incremental phases rather than in one big step. This has also been described as an incremental-comprehensive approach. See 'An Incremental-Comprehensive Approach' in *Securing our Survival: The Case for a Nuclear Weapons Convention*, Datan, Hill, Scheffran and Ware, 2007. pp27-29. <http://www.lcnarchive.com/pubs/2007-securing-our-survival.pdf>

⁵ See Section IV of the Model NWC: Phases for Implementation;

⁶ The Model NWC envisages a comprehensive prohibition on the threat or use of nuclear weapons applying on entry-into-force (EIF) of the negotiated convention. However, there are at least two ways in which an NWC process could involve a progressive approach to phasing out and ending reliance on nuclear weapons. The first is that the negotiations on all aspects of the NWC will likely take some time, during which initial measures could be adopted. The second is that EIF requirements are proposed that provide a choice for states parties to accept EIF of the NWC for them unilaterally once they ratified or only after other listed nuclear capable states have ratified.

⁷ UN Document A62/650

⁸ NPT/CONF.2010/PC.I/WP.17

⁹ Presented in: Datan, M., A. Ware, M. Kalinowski, J. Scheffran, V. Sidel, J. Burroughs (1999) *Security and Survival. The Case for a Nuclear Weapons Convention*. Cambridge, MA: IPPNW, IALANA, INESAP.

¹⁰ Conference paper A/AC.286/WP.11

The Model NWC, which builds on the experience of other treaties prohibiting and eliminating whole classes of weapons (most notably the Chemical Weapons Convention), includes sections on:

- General Obligations;
- Definitions;
- Declarations;
- Phases for Implementation;
- Verification;
- National Implementation;
- Rights and Obligations of Persons;
- Institutional arrangements including a governing Agency;
- Procedures for destroying weapons and preventing production;
- Nuclear Material;
- Nuclear Facilities;
- Delivery Vehicles;
- Compliance and Dispute Settlement;
- Entry-into-Force;
- Scope/Application, including Relationship to Other International Agreements.

While the 2007 Model NWC provides the most comprehensive overview of a potential legal, technical and institutional framework for establishing a nuclear-weapon free world,¹¹ there have been a number of developments since 2007 that also need to be considered. These include changes in existing international agreements and mechanisms (see below), the emergence of a new, multi-polar arms race and new weapons technologies of strategic significance including, *inter alia*, the increased military relevance of cyberspace and outer space, and the relation of these to nuclear weapons. The civil society organizations submitting this discussion paper are considering these new developments, and welcome dialogue with States Parties to the NPT – especially the nuclear armed and allied States – on their implications.

b) Existing mechanisms and the gaps

The Model NWC highlights existing international agreements and mechanisms that contribute to nuclear disarmament. These include, *inter alia*, the International Atomic Energy Agency and its safeguards regime, the Comprehensive Nuclear Test Ban Treaty (CTBT) and the CTBTO Preparatory Commission, the existing nuclear-weapon free zones, UN Security Council Resolution 1540 and the UN 1540 Committee, the Convention on the Suppression of Acts of Nuclear Terrorism, and the START Treaty between Russia and the United States.

Since the Model NWC was released, another bilateral US-Russia agreement was reached, the New START Treaty.¹² On the multilateral plane, the *Treaty on the Prohibition of Nuclear Weapons* (TPNW), prohibiting the acquisition, possession, threat and use of nuclear weapons for those parties ratifying it, was negotiated in 2017 and entered into force in 2021. The nuclear-armed states and NATO and other nuclear ally states did not participate in negotiation of the TPNW¹³ and have stated or signalled that they will not join the treaty.

¹¹ For details see: Datan, M., F. Hill, J. Scheffran, A. Ware, M. Kalinowski, V. Sidel (2007) *Securing Our Survival. The Case for a Nuclear Weapons Convention*. Cambridge, MA: IPPNW, IALANA, INESAP (<http://inesap.org/node/22>).

¹² In addition, the 2015 JCPOA—the Iran Nuclear Deal—added new approaches in terms of safeguards and mechanisms of compliance which might provide further lessons for the development of comprehensive verification and compliance measures for nuclear disarmament. The JCPOA became inoperative due to US withdrawal under the Trump administration and it is uncertain whether it will be revived.

¹³ An exception is the Netherlands, which did participate in the negotiations.

The Model NWC was an inspiration for the TPNW. The moral, political, and legal norms—including international humanitarian and human rights law—that should drive the abolition of nuclear arms are powerfully articulated by the TPNW. In addition, the TPNW adds a new element to the nuclear disarmament sphere, positive obligations of victim assistance and environmental remediation in relation to injury and damage caused by use and testing of nuclear weapons. However, unlike the Model NWC, the TPNW provides only a minimal framework for nuclear disarmament, lacking procedures for destroying existing stockpiles safely, securely, and verifiably, and mechanisms to ensure that they will never again be built.¹⁴ The TPNW framework could be developed through protocols or other related instruments.

In terms of normative development, it is also significant that in 2018 the UN Human Rights Committee adopted General Comment 36 on the right to life as codified in the International Covenant on Civil and Political Rights (ICCPR). The committee affirmed that the threat or use of nuclear weapons is incompatible with respect for the right to life and that states parties to the ICCPR have obligations to refrain from producing nuclear weapons, to destroy existing stockpiles and to provide adequate reparation to victims of nuclear weapons testing and use.¹⁵ Mechanisms for monitoring state compliance with such obligations are provided by the Human Rights Committee and the UN Human Rights Council.

Overall, despite the advances since the release of the 2007 Model NWC, the gaps between the real world with nuclear weapons and the ideal world without them remain large.

c) Modalities and approaches for filling the gaps

There are a range of modalities and approaches for establishing the remaining legal, technical and institutional measures and mechanisms required to achieve and maintain a nuclear-weapon-free world. These include:

- negotiation of a comprehensive nuclear weapons convention or package of agreements;
- negotiation of a framework agreement which includes the legal commitment to achieve a nuclear-weapon-free world, identifies the measures and pathways required in general terms, and provides a process for agreeing on details over time;
- negotiation of protocols to the TPNW or related instruments which nuclear armed and allied states would sign as part of a process for them to join the TPNW and build the nuclear destruction, elimination, verification and compliance process through the TPNW, particularly its Article 4.¹⁶

In assessing and implementing these options, it is essential to focus on the practical requirements, measures and mechanisms to achieve and sustain a nuclear weapons free world.

¹⁴ For a comprehensive comparison of the elements of the TPNW and the Model NWC, see Merav Datan and Jürgen Scheffran, “The Treaty is Out of the Bottle: The Power and Logic of Nuclear Disarmament”, *Journal for Peace and Nuclear Disarmament*, Nagasaki University, February 2019 (<https://doi.org/10.1080/25751654.2019.1584942>)

¹⁵ Para. 66, <https://undocs.org/CCPR/C/GC/36>.

¹⁶ Article 4 Section 6 of the TPNW states: “The States Parties shall designate a competent international authority or authorities to negotiate and verify the irreversible elimination of nuclear weapons programs”.

Various modalities or approaches can be used for making progress, so long as their output reflects, in general, the principles of transparency, irreversibility, verifiability and participation.¹⁷

Recommendations

States Parties to the Non-Proliferation Treaty should commit at the 10th NPT Review Conference to start phasing out reliance on nuclear weapons and building the framework for a nuclear weapons free world by:

1. Establishing an inter-sessional process to explore the legal, technical and institutional measures to progressively reduce nuclear weapons stockpiles and phase out reliance on nuclear weapons, and to achieve the global prohibition and elimination of nuclear weapons under strict, effective and verifiable international control;
2. Committing to adopt a concrete plan at the UN General Assembly, Conference on Disarmament and/or the 11th NPT Review Conference in 2025 to implement these measures;
3. Committing to a timeframe of no later than 2030 for the adoption of a framework, package of agreements or comprehensive nuclear weapons convention,¹⁸ and no later than 2045 for full implementation,¹⁹ in order to fulfil the NPT Article VI and customary law obligation to achieve the global elimination of nuclear weapons no later than the 100th anniversary of the first use of nuclear weapons, the 75th anniversary of the NPT and the 100th anniversary of the founding of the United Nations.

Conclusion

Over a decade has passed since States Parties to the NPT reaffirmed their disarmament obligations in the 2010 Review Conference Final Document. Considerable progress has been made by non-nuclear states through the establishment, for example, of nuclear-weapon-free zones and the adoption of the TPNW. In contrast, there are no negotiations for disarmament or even far-reaching arms control among the nuclear-armed states in progress or on the horizon. Moreover, throughout this period, tensions among nuclear-armed countries have been rising, with the potential for war increasing. With the Russian war on Ukraine a stark reality entering its sixth month, we are now seeing all too clearly that these dangers are not mere distant possibilities but pressing realities.

¹⁷ Verifiability, irreversibility and transparency have generally been accepted as key principles in disarmament agreements. This is reflected, for example in the 2010 NPT Final Outcome document (NPT/CONF2010/50) section A: Principles and Objectives, Action 2: “All States parties commit to apply the principles of irreversibility, verifiability and transparency in relation to implementation of their treaty obligations.” Additional principles relating to the participation of all relevant stakeholders – including impacted communities, experts, civil society organizations, women and youth - have been affirmed in recent disarmament treaties and in *Securing our Common Future: An Agenda for Disarmament*, released by the UN Secretary-General in May, 2018, www.un.org/disarmament/sg-agenda/en/

¹⁸ This recommendation envisages no more than 5 years, starting from 2025, to conclude the negotiations for a nuclear weapons convention or framework agreement. An insurgence of political will could enable an earlier starting and concluding date to such negotiations.

¹⁹ Key obligations of a nuclear weapons convention or framework agreement would be established on Entry-into-Force, which should occur relatively soon after adoption of the convention/framework agreement. This would include the ‘negative’ obligations such as prohibitions on the threat or use of nuclear weapons as well as on their testing, production and deployment. However, it will take some time to undertake the positive obligations, i.e. dismantlement and full destruction of nuclear weapons stockpiles, destruction and/or conversion of delivery vehicles, safe disposition of fissile materials, and establishing effective verification measures to monitor compliance with weapons destruction plans. In addition, it will most likely be necessary to undertake the destruction of nuclear weapons in monitored phases. Most of the nuclear armed states will need to establish confidence that the other nuclear armed states are complying with their disarmament obligations prior to taking the final steps of moving from low numbers of nuclear weapons to zero nuclear weapons. The Model NWC envisages that 15 years would likely be required to undertake this process. See footnotes 3, 8 and 10.

Against this background, reconsideration of a Nuclear Weapons Convention, or a package of mutually reinforcing instruments backed by a strong system of verification, was already in order. Consideration of the elements that nuclear-armed and allied states might need to negotiate helps to make concrete “the key issues that must be overcome to achieve lasting global nuclear disarmament”²⁰—or to reveal that those key issues lie elsewhere than in the legal and technical requisites for disarmament. Those elements are relevant and crucial whatever path is chosen to elimination.

Today, with four nuclear-armed countries possessing over 90% of the world’s nuclear weapons engaged directly or indirectly in a major war in Europe, the need for a renewed commitment to nuclear disarmament is more urgent than ever. Over three quarters of a century ago in the wake of the atomic bombing of Hiroshima, philosopher Albert Camus called on the people of the world to demand that their governments come to their senses. It is a call that resounds again today:

*Faced with the terrifying perspectives which are opening up to humanity, we can perceive even better that peace is the only battle worth waging. It is no longer a prayer, but an order which must rise up from people to their governments—the order to choose finally between hell and reason.*²¹

Members of the Abolition 2000 Working Group who co-drafted this NPT working paper
Titles are included for identification purposes only

Edward A. Aguilar J.D. *Pennsylvania Director for the Coalition for Peace Action. Member of the 1997 Model NWC drafting committee;*

Giorgio Alba. *Abolition 2000 Global Council member;*

John Burroughs. *Senior Analyst, Lawyers Committee on Nuclear Policy;*

Jackie Cabasso. *Executive Director, Western States Legal Foundation. Co-Chair of the Abolition 2000 NWC Working Group;*

Roger Clark. *Professor of Law Emeritus, Rutgers University. Member, Lawyers’ Committee on Nuclear Policy Consultative Council. Member, 1997 Model NWC drafting committee and 2007 Model NWC Redraft Committee;*

Robin Collins. *Member, Pugwash Canada. Co-Chair, Canadian Network to Abolish Nuclear Weapons;*

Marc Finaud. *Head of Arms Proliferation, Geneva Centre for Security Policy. Vice President, Initiatives pour le désarmement Nucléaire;*

Andrew Lichterman. *Senior Research Analyst, Western States Legal Foundation;*

Vanda Proskova. *Co-convenor, Youth Fusion;*

Tony Robinson. *Operations Manager, Middle East Treaty Organization (METO). Member, Abolition 2000 Coordinating Committee;*

Elizabeth Shafer J.D. *Board member, Lawyers Committee on Nuclear Policy. Member of the 1997 Model NWC drafting committee;*

Prof. Dr. Jürgen Scheffran. *Head of Research Group Climate Change and Security, Universität Hamburg. Co-Chair INES and 1997 Model NWC Drafting Committee;*

Alyn Ware. *Peace and Disarmament Program Director, World Future Council. International Representative, Aotearoa Lawyers for Peace. Co-Chair, Abolition 2000 NWC Working Group. Co-Chair, 1997 Model NWC Drafting Committee. Drafting coordinator for the 2007 revised Model NWC.*

Dave Webb. *Board member, Campaign for Nuclear Disarmament (CND). Member, Abolition 2000 Coordinating Committee.*

²⁰ “[W]e reiterate our opposition to the Treaty on the Prohibition of Nuclear Weapons.... The TPNW fails to address the key issues that must be overcome to achieve lasting global nuclear disarmament.” 2012 [P5 Joint Statement on the Treaty on the Non-Proliferation of Nuclear Weapons - GOV.UK \(www.gov.uk\)](#)

²¹ [Albert Camus, Reaction to the Atom Bomb, August 8, 1945](#) - Lit by IMAGINATION