

Under Pressure

**Nuclear weapons states react angrily
to plans for nuclear treaty**

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For once, the United States, France and the United Kingdom are in agreement with Russia: plans to negotiate a nuclear weapons ban need to be stopped. Before the vote last Thursday in the UN First Committee, they pulled out all the stops to pressure other states to vote against or abstain on a draft resolution co-sponsored by 57 states for a conference to be convened in 2017 to negotiate a nuclear ban. In private conversations with delegates, the International Campaign for the Abolition of Nuclear weapons (ICAN) heard of several instances of applied and implied pressure on states, also receiving a leaked document from the US to NATO allies. Several states simply left the room rather than vote the “wrong” way.

123 states voted in favour of UN resolution L.41, deciding “to convene a UN conference to negotiate a legally-binding instrument to prohibit nuclear weapons, leading towards their total elimination”, beginning in March of next year. 38 states voted against, including five of the nine nuclear possessor states – the US, Russia, France, the UK and Israel, and all but one state in NATO (the Netherlands abstained). China, India and Pakistan abstained, as did 13 other states. Of the nine nuclear weapons states, only North Korea voted in favour of a ban.

Both before and after the vote, those opposing the ban were openly vocal in their criticism of the ban initiative, citing several perceived drawbacks, all of which had been discussed at the preceding Open-Ended Working Group that ended in August of this year with a majority decision to recommend convening a negotiating conference. These criticisms – given in publicly available statements and answers to parliamentary questions – centre around largely unsubstantiated claims that a new treaty could somehow divert from or undermine present treaties and arrangements, including the Non-Proliferation Treaty (NPT), or could deepen a divide that already exists within the international community. However, ban proponents argue that the new treaty would actually seek to

fulfil commitments enshrined in article VI of the NPT to end the nuclear arms race and to achieve disarmament. They argue that there are no plans to use the ban to replace the NPT, rather to complement it and to allow non-NPT signatories to enter into negotiations. A further assumption that a new treaty could not be verified assumes that states negotiating it would not use existing NPT-based mechanisms, a subject that could easily be settled at the negotiating conference next year.

There were further claims that the “step-by-step” approach, favoured by the nuclear weapons states and their allies, is “proven” and “successful”, whereas supporters of a nuclear ban pointed to the singular lack of success of this approach as a motivating factor in trying a new path to disarmament. Allies expressed scepticism that the ban initiative could be effective because of the lack of support from the nuclear weapons states, calling for consensus and “inclusion” in diplomatic efforts for disarmament. However, the insistence on consensus has hampered all efforts in the past to advance disarmament, since it has allowed states to veto all progress. The deadlocked Conference on Disarmament in Geneva that uses consensus decision-making has not reached agreement on an agenda in over twenty years.

The challenge to nuclear deterrence

The fundamental disagreement here is on the perception of security needs. Those countries that feel dependent on nuclear weapons for their defence fear that making nuclear weapons illegal would challenge nuclear deterrence and disallow measures to ensure that such deterrence is credible. Supporters of a ban treaty, all of whom have already long renounced nuclear deterrence and the possession of nuclear weapons through their membership as nuclear weapon-free state parties to the NPT, perceive nuclear weapons to be a threat to their security, health, the environment and the planet itself. The arguments for this position were painstakingly presented at three state conferences on the Humanitarian Impact of Nuclear Weapons, which collectively arrived at the conclusion that nuclear weapons need to be eliminated as a matter of urgency.

Challenging nuclear deterrence is indeed the central point in supporting a prohibition on nuclear weapons. After all, you can't make an omelette without breaking eggs. In the leaked US “non-paper” entitled “Defense Impacts of Potential United Nations General Assembly Nuclear Weapons Ban Treaty” the implications of a nuclear weapons ban for the US and NATO are detailed. This paper contains the actual arguments against a ban, previously hidden from public view. Citing the elements of a legally-binding nuclear weapons ban put forward in Annex II of the final report of the Open-Ended Working Group, which was mandated by the UNGA in 2015 to develop proposals to take forward multi-lateral nuclear disarmament negotiations and to discuss legal instruments, the US make a hypothetical case that at least nine of these elements would have “a direct impact on the US ability to meet its NATO and Asia/Pacific extended deterrence commitments

and the ability of our allies and partners to engage in joint defense operations with the United States and other nuclear weapons states". The paper goes on to say that any state found to be "assisting, encouraging or inducing, directly or indirectly" the United States or other nuclear weapon states in nuclear use, planning or training would be in violation of a ban treaty. In fact, this practice of nuclear sharing is highly unpopular with most state parties to the NPT because it is viewed as contravening the bar on non-proliferation. The US goes even as far as to say that these treaty elements are "designed by ban advocates" to destroy the basis for US nuclear extended deterrence, ignoring the simple fact that the idea of a ban seeks to challenge nuclear deterrence for all states and not just the United States. The paper complains that the (intransparent) policy of "neither confirm nor deny" on the presence or absence of nuclear weapons on US naval ships would also no longer be possible, nor could the US continue to use nuclear-capable delivery systems "to conduct assurance missions for US allies", such as flying B52 bombers over South Korea to threaten Kim Jong-Un or over the Baltic States to threaten Russia.

The US rightly points out that "A stance that delegitimizes nuclear deterrence would be inconsistent with core concepts" contained in non-binding NATO political agreements, such as its Strategic Concept, Deterrence and Defense Posture Review and Summit Declarations of recent years. "Any signatory Ally could believe it was legally required, and could take actions, to block all NATO nuclear cooperation, whether or not the signatory actively participated in NATO nuclear burden-sharing arrangements." The conclusions in the non-paper seek to preclude the idea that NATO could change its policy in the face of a near-global nuclear ban in order to remain cohesive, and instead urges all NATO members to remain in solidarity with those who wish to retain nuclear weapons and to remain outside of a nuclear ban. "Although most Allies would choose to remain steadfast in their commitment to the core concepts set out in NATO's formative documents, others may feel pressured to pull back from their participation or block decisions of the NPG or HLG* in support of NATO's nuclear deterrence capabilities – an outcome that could splinter Alliance consensus on its deterrence and defense posture", the US concludes. The pressure referred to here may refer to strong public and parliamentary opposition in the Netherlands, Belgium and Germany, where US nuclear weapons are presently deployed, which led to the Netherlands abstaining on the resolution, despite US warnings.

The challenge to legitimacy

The core concept of an "appropriate mix" of nuclear, conventional and missile defence capabilities led to the NATO mantra (originally coined by Hillary Clinton): "as long as nuclear weapons exist, NATO will remain a nuclear alliance". This catch-22 statement has since found its way into NATO documents, possibly in response to the Prague vision, and seems to assume that – despite the preferred step-by-step approach – there will be

*NPG = Nuclear Planning Group; HLG = High-Level Group

no steps at the ultimate stage of ban and elimination, but that everything will suddenly and concurrently be agreed upon and all nuclear weapons disappear, as if by magic. How will nuclear weapons then cease to exist? There is no conceptual thinking on the part of any of the nuclear weapons states as to how their obligation to eliminate nuclear weapons can actually be attained, only that it remains an ultimate (and elusive) goal. The abolition of nuclear weapons becomes simply a question of faith, either you believe the nuclear weapons states will disarm or you don't. But the legal tenet of "good faith" – contained in article VI of the NPT – means that parties need to demonstrate that they are taking actual steps to fulfil their obligations. So far, none of the actions listed in the 2010 NPT action plan have been fulfilled by the nuclear weapons states. Instead, they have delivered a glossary of terms – a step that was not even contained in the action plan. The divide between nuclear and non-nuclear parties to the NPT has indeed been deepened, but by this lack of purpose by the nuclear powers. The desire to make nuclear weapons illegal is a response to the claim by nuclear weapons states that the NPT actually legitimises their possession.

The claim that nuclear weapons are "absolutely legitimate" was most forcefully put forward by the delegate for the Russian Federation in a statement to the First Committee prior to the vote on L.41 condemning the resolution. In a show of unprecedented solidarity, he echoed US, UK and France warnings on the resolution: there would be "fatal, destructive repercussions" that would "wreak damage on the NPT" should it be adopted. He described the ban as "outright antagonism". US officials in other fora have used equally aggressive language to imply that the nuclear weapons states would seek to somehow punish those who would challenge their nuclear hegemony. France, the UK and the US argued in the UN committee that a ban would render consensus at the next NPT Review Conference "impossible", implying that their cooperation in negotiations might be put into question. The question this begs is: could the threatened repercussions for the NPT ensue from the nuclear weapons states themselves? This idea has also been floated in closed-door discussions with Allies, indicating that the unsubstantiated claim that the NPT is endangered may in fact be a veiled threat to walk away from existing obligations – an intrinsically emotional response to what is probably being experienced as a challenge to their long-standing power base. Indeed, the Russian delegate sounded more angry and desperate than convincing in his diatribe against the ban. One US official was heard to say in a recent conference that "we wouldn't like what would happen" if a ban was adopted. But despite these threats, it is unlikely that the nuclear weapons states would do anything of the kind. In a much gentler response to the ban treaty, Thomas Countryman says that the US would continue to fulfil its commitments under the NPT. Walking away from the NPT is simply not an option, unless the nuclear weapons states want to encourage nuclear proliferation.

The challenge to world order

A recent Foreign Policy article iterated the pressure being exerted on states to vote against or abstain on the ban resolution. Certainly, the voting results seemed to back this up. A large number of states turned up to vote because L.41 was on the agenda, seeing the vote as an opportunity to build their collective security through multilateral diplomacy. However, some states that had supported the precursor resolution, or aligned themselves with the Humanitarian Pledge, abstained or did not vote on L.41. There were reports that they had been approached and had been made to understand that they might risk putting relationships “under strain” if they voted for a ban. A number of states are financially independent or have important trade agreements with one or more nuclear weapons states and were anxious not to endanger those. There were private admissions from states that they were unwilling to put their applications to become NATO member states at risk. I personally witnessed the delegate from Afghanistan get up and leave the room just prior to voting on L.41, only to return to vote on other resolutions. Looking through the list of states that failed to vote, it was noticeable that Afghanistan was not alone in this behaviour. At least seven states that voted on all the other resolutions in First Committee were absent during the voting on L.41, among them states that voted in favour of the Humanitarian Pledge just a few minutes before.

Nuclear weapons are instruments of power and their possession is inextricably tied to the world order. The differing reactions of the nuclear weapons states tells us a great deal: Russia and the USA, with France and UK on their shirt tails, continue to try to cling on to their 20th century hegemonic power, shored up by nuclear deterrence. Both the Russian statement and the US non-paper are aggressive claims to a world order that is now being challenged. China, India and Pakistan, on the other hand, indicate with their abstention that they can at least imagine a world without nuclear weapons and, therefore, a different world order. And North Korea? Well – that’s a story for another article.

The adoption of a treaty prohibiting nuclear weapons would restore the leverage to the nuclear weapon-free states that they lost in 1995 with the indefinite and unconditional extension of the NPT. At that time, the main argument against making the treaty indefinite was that it would remove the time-pressure and urgency of nuclear disarmament. Originally, the treaty was only valid for 25 years and it had been expected that this would be an adequate amount of time to fulfil article VI. Twenty years after its indefinite extension, we see that exactly this lack of urgency has prevented the world in achieving its stated goal. By banning nuclear weapons, the concept of nuclear deterrence – and by extension, world order – is once again under pressure.