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of Nuclear War
Ware - International Association
Against Nuclear Arms
The Case for a Nuclear Weapons Convention

The Prevention
Lawyers

NGO statement, NPT PrepCom, Vienna, 2 May 2007

Recently an important turning point was marked - the 200th anniversary of the end of the trans-Atlantic slave trade. The reason slavery was outlawed and deinstitutionalised is because an abolitionist movement grew. This movement was made up of a small number of persistent and increasingly effective people, who were able to arouse the imaginations of larger numbers of people, including influential people, who said No to slavery and Yes to human rights. This anniversary was celebrated because outlawing a shameful social behaviour and violent political practice is worth celebrating. The people who stood up to the cruel profiteers of slavery had a courage that is inspiring and instructive to us today. We remember their names and stories with gratitude and respect. That abolitionist movement would not accept a little bit of regulated slavery under safeguarded conditions. Those abolitionists kept their "eyes on the prize" and they used the word abolition quite deliberately; no slavery whatsoever would be tolerated, because slavery itself is entirely unacceptable.

The immoral threat of annihilating whole cities, populations, countries or even civilisation with nuclear weapons belongs in the past. In the future, anniversaries that mark the abolition of nuclear weapons will be celebrated, because nuclear weapons are unacceptable to the vast majority of nations and people who recognise that they are the result of shameful social behaviour and violent political practice that humanity will evolve from. The prize we keep our eyes on is a Nuclear Weapons Convention. It is primarily a treaty - a negotiated agreement or package of linked agreements - but it is also a set of customs or accepted practices, which will reflect norms, or universal principles. The principles are about our survival, now and into the future, and the conditions under which we can best secure it. The practices are about how states and peoples relate to one another internationally, the tools they need to maintain and enhance genuine security. The treaty will include a mixture of legal, technical and political elements and establish a series of steps to comprehensively prohibit, and systematically eliminate, all nuclear weapons. It will derive from current commitments, legal obligations and security requirements of States, as such providing a practical and realistic path to nuclear weapons abolition.

The majority of countries support nuclear abolition and have registered their belief that negotiations leading to a nuclear weapons convention can and should begin immediately. 125 countries in December 2006 in the UN General Assembly indicated their desire "to achieve the objective of a legally binding prohibition of the development, production, testing, deployment, stockpiling, threat or

These considerations, while delaying conclusion of an NWC, should not prevent the commencement of negotiations. In fact, it is through the negotiations that these issues can be adequately addressed and resolved. What is desperately needed is the commitment to begin.

When there is sufficient political will, negotiations can be concluded fairly quickly. The Partial Test Ban Treaty, for example, was concluded in ten days of determined negotiating in July 1963, after years of deadlock.⁵ We all know that the NPT and the whole disarmament negotiating machinery has experienced years of deadlock, but many of the obstacles to change may very well soon be voted out of the way, thereby allowing the democratic will of the majority of states and citizens to realize the long held goal and unequivocal undertakings for the total elimination of nuclear arsenals.

Uncertainty about the future did not prevent large-scale development and deployment of nuclear weapons, which shaped the international security regime. Similarly, decisive action towards nuclear disarmament will shape the viability of this goal. Uncertainty about the future has rarely prevented human beings from seeking answers-in fact, it is generally an incentive. In the context of nuclear weapons, pursuit of these answers is imperative for securing our survival.

How to Achieve a Nuclear Weapons Convention?

There are three general views as to how nuclear disarmament can best be achieved. The first, a step-by-step approach, entails negotiations on a limited number of initial steps towards nuclear disarmament. The US, which supports this approach, has indicated that next steps should be bilateral reductions in stockpiles as agreed under the Moscow Treaty,⁶ and a treaty to cut off production of fissile material.⁷ The NPT Review Conferences in 1995 and 2000 agreed that a Comprehensive Test Ban Treaty was one of these disarmament steps.

A divergent perspective calls for comprehensive negotiations on the complete elimination of nuclear weapons under a time-bound framework. The Non-Aligned Movement, for example, has called on the

⁵ Daalder, Ivo H. The Limited Test Ban Treaty. In: Carnesale Albert, and Richard N. Haass, eds., Superpower Arms Control: Setting the Record Straight. Cambridge, Mass.: Ballinger. 1987.

⁶ Treaty Between the United States of America and the Russian Federation On Strategic Offensive Reductions, May 2002. http://www.state.gov/t/ac/trtl18016.htm#_ftn1

⁷ Statement by John Holum, Acting Undersecretary of State and Director of the US Arms Control and Disarmament Agency, UN First Committee, October 14, 1998

Conference on Disarmament to "commence negotiations ... on a phased program of nuclear disarmament and for the eventual elimination of nuclear weapons within a time-bound framework". 8

A third perspective calls for a middle path between the first two, combining elements of the step-bystep approach and the comprehensive approach into an incremental-comprehensive program. The declaration of eight foreign ministers entitled *Towards a Nuclear-Weapon-Free World: The Need for a New Agenda*, calls for a series of bilateral, plurilateral, and multilateral steps, which would lead towards the elimination of nuclear weapons through a legally binding instrument or framework of instruments.⁹

The authors of *Securing our Survival: The Case for a Nuclear Weapons Convention* suggest that a NWC is best achieved through this latter incremental-comprehensive approach, where a series of unilateral, bilateral, plurilateral, multilateral and global steps can be taken concurrently. They discuss the possibilities open to the Conference on Disarmament, international conferences including the whole membership of the UN General Assembly, states covered by Nuclear Weapons Free Zones, and an Ottawa style process similar to that which evolved the Landmine Ban treaty, practices and norms. They also discuss the NPT.

Is the Non-Proliferation Treaty Review Cycle a Negotiating Opportunity?

The parties to an existing treaty could negotiate a protocol, an amendment or even a new treaty in order to further the aims and objectives of the current treaty. The Philippines, for example, suggested in 1996 that the parties to the Non-Proliferation Treaty convene a conference for the purpose of negotiating an NWC as a means to implement Article VI of the NPT.¹⁰ The Marshall Islands in 1997 proposed that the 2000 NPT Review Conference establish an inter-sessional working group to assist in negotiations on an NWC.¹¹ If such a group were established, considerable preparatory work for an NWC could commence even before the nuclear weapons states agree to enter into negotiations.

⁸ UNGA Res. 50/70 P, 12 December 1995.

⁹ "Towards a Nuclear- Weapon-Free World: The Need for a New Agenda", joint declaration of the foreign ministers of Brazil, Egypt, Ireland, Mexico, New Zealand, Slovenia, South Africa and Sweden, June 9, 1998.

¹⁰ Statement by Philippines President Fidel Ramos. Manila. July 9, 1996.

¹¹ General considerations to be taken into account by Parties in the Review Process. Submitted by the Marshall Islands. NPT/CONF.2000/PC.I/II, 11 April 1997.

Malaysia and Costa Rica submitted working papers to the 2000 and 2005 NPT Review Conferences calling on States Party to the NPT to *"agree* to commence multilateral negotiations leading to the conclusion of a nuclear weapons convention and *invite* those States that have not acceded to the Treaty on the Non-Proliferation of Nuclear Weapons to join in such negotiations.,,12

Another proposal is that the parties to the NPT call a special conference to amend the NPT.13

The amendment, in the form of a negotiated protocol to the treaty, would prohibit nuclear weapons and provide for their elimination. While obtaining agreement from the nuclear weapon states on such a protocol could be difficult, the NPT requires a conference to be held to discuss the proposal if one-third of the parties to the treaty request such a conference. A similar approach was taken in 1991 when onethird of the parties to the Partial Test Ban Treaty requested a conference at which they proposed amending the PTBT to make it a Comprehensive Test Ban Treaty. While the nuclear weapon states did not agree to the amendment, the process did help achieve a negotiating mandate for a CTBT in the Conference on Disarmament.

Conclusion

The leaders of the nuclear weapon states have not yet demonstrated the political will to abolish nuclear weapons. They continue to be influenced not to develop such will by strong political forces with an interest in the status quo - including nuclear weapons contractors for example. Barring a massive nuclear catastrophe, or the emergence of new and visionary global leaders, only the combined efforts of citizens and supportive non-nuclear governments are likely to persuade them to move. That is exactly what is occurring - citizens are mobilising, and so are governments who are increasingly joining their voices and efforts - keeping our eyes on the prize we will achieve nuclear abolition and a Nuclear Weapons Convention.

12 Follow-up to the Advisory Opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons: Legal, technical and political elements required for the establishment and maintenance of a nuclear weapon-free world: Working Paper submitted by Malaysia, Costa Rica, Bolivia, Democratic Republic of Timor-Leste, Nicaragua, and Yemen. 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, 227 May 2005, <http://www.lcnp.org/disarmament/npt/2005NPTmalaysia-wp.htm>

13 "Diplomatic Judo: Using the NPT to make the nuclear weapons states negotiate the abolition of nuclear weapons", Zia Mian and M. V. Ramana, Center for Energy and Environmental Studies, Princeton University, October 1998.