

Session 4: EU Non-proliferation and Disarmament Policy

Recent developments in the field of nuclear disarmament

Fifth Consultative Meeting of the EU Non-Proliferation Consortium

8 July 2016, Brussels

Presentation Notes¹

Jenny Nielsen, VCDNP²

Recent developments in nuclear disarmament? The need to bridge the growing divide between deterrence and disarmament enclaves

With geopolitical tensions and deterrence doctrines back in the ascendant, the prospects for progress towards multilateral nuclear disarmament look dim, despite the momentum to promote the negotiation of a ban on nuclear weapons. Following the failure of the states parties to the NPT to adopt a consensus Final Document at the 2015 RevCon due to significant [divisions](#) on key issues, the voting and statements at the UN General Assembly First Committee (which deals with disarmament and threats to peace) [highlighted](#) the ‘even stronger polarisation and hardening of positions’ between the non-nuclear weapon states (NNWS) and NWS given the latter’s refusal to make meaningful progress on their disarmament obligations.

As [heard](#) at the 2015 EU Non-Proliferation and Disarmament Conference, ‘the [2015 session of the] First Committee has confirmed the polarisation and also the deep mistrust that is there between nuclear-weapon states and a considerable part of the non-nuclear weapon states’. To aggravate this, no state or group of states seemed to be capable of playing ‘[a bridge-building role](#)’. As a result, the world was left without a consensus on how to begin disentangling the tight knot of nuclear politics so that NWS could move towards their NPT commitment to disarmament.

I. The evolving humanitarian initiative

¹ Notes collated from previous articles by the author. <http://www.thepolicyspace.com.au/2015/11/50-humanitarian-paradigm-shift-on-nuclear-weapons-policy-or-hot-air/>; <https://sustainablesecurity.org/2016/05/09/reviewing-the-comprehensive-nuclear-test-ban-treaty-at-20/>; and <https://sustainablesecurity.org/2015/12/09/options-for-nuclear-disarmament-in-a-climate-of-deterrence/>

² Comments and questions? E-mail: jennyn@vcdnp.org

States parties of the Nuclear Non-proliferation Treaty (NPT) failed to reach a consensus document—one widely recognized metric for a ‘successful’ review conference—at the Treaty’s quinquennial 2015 Review Conference (RevCon) at the UN in May. Several issues proved politically contentious—and ultimately obstacles to compromise—during the RevCon. One perennial issue of contention between states parties is the perceived pathway for implementing nuclear disarmament commitments. Since the inclusion of a reference to the ‘deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons’ in the [Final Document of the 2010 NPT RevCon](#), a cross-regional and cross-grouping initiative of states parties has gained momentum and coalesced in support of stressing the humanitarian imperative of nuclear disarmament, forming an evolving ‘initiative’ at the relevant multilateral fora (UNGA First Committee, Conference on Disarmament and NPT review process, OEWG). Many states ([127, notably including Iran](#)) engaging with the humanitarian initiative are [actively pledging](#) further for the pursuit of effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons. At the 2015 NPT RevCon, this broad-based initiative gained formal support from 159 NPT-member states, co-sponsoring a [joint statement led by Austria](#). Through the joint statement to the RevCon and national statements, these states formally voiced their concern about the catastrophic humanitarian consequences of nuclear weapons. Significantly, as in previous formal statements to the UNGA and the Preparatory Committee (PrepCom) meetings of the 2015 NPT review cycle, it is argued that ‘it is in the interest of the very survival of humanity that nuclear weapons are never used again, under any circumstances’. This is based on [recent studies and evidence](#) relating to health, environmental, resource security, consequence management, as well as risk assessments—presented at the three [international conferences](#) on the humanitarian impact of nuclear weapons—that ‘the catastrophic effects of a nuclear weapon detonation, whether by accident, miscalculation or design, cannot be adequately addressed’.

As in the [previous UNGA First Committee](#) sessions, [Australia led a separate joint statement](#) on humanitarian consequences of nuclear weapons on behalf of 26 NPT-member states at the 2015 RevCon. As in the previous Australia-led alternate statements on this issue, this grouping of states stress that both the security and humanitarian dimensions of nuclear weapons need to be addressed in order to create the conditions for further reductions and the [eventual elimination of nuclear](#)

[arsenals](#). Although welcoming the Austrian-led joint statement on humanitarian consequences, the Australian-led joint statement [elaborates](#) that ‘there are no short cuts’ to the shared goal of nuclear disarmament, and that ‘eliminating nuclear weapons is only possible through substantive and constructive engagement with those states which possess nuclear weapons’. These [26 states argue](#) that ‘hard practical work’ towards ‘a world free of nuclear weapons must still be done’ ‘methodically and with realism’ in order ‘to attain the necessary confidence and transparency to bring about nuclear disarmament’.

Some advocates of a near-term [legal nuclear weapons ban process](#) might argue that the nuclear non-proliferation and disarmament regime is already undergoing a paradigm shift on the social construct and perceptions of nuclear weapons. One could argue that, despite the growing momentum of the humanitarian initiative and its activities, we are far from a discourse and paradigm shift. Whilst the humanitarian imperative has definitely and significantly raised the humanitarian dimension on the agenda within discussions in key multilateral diplomatic fora and relevant international conferences, there is no evidence to suggest that postures and perceptions held by states—particularly nuclear weapons possessors and those states under extended nuclear deterrence arrangements—vis-à-vis the value and role of nuclear weapons by states, have shifted. Whilst pre-existing postures by many NPT non-nuclear weapons states (NNWS) have notably been articulated through the humanitarian imperative and the initiative’s discourse—perhaps in some instances as a result of civil society’s sophisticated and concerted efforts—there is no evidence to assert that the discourse and paradigm on nuclear weapons has shifted. As much as we would wish, postures, underlying assumptions, social constructs and perceptions vis-à-vis nuclear weapons and their political and military value haven’t changed, particularly by those in possession of (and also by those reliant through extended deterrence on) nuclear arsenals. No Kuhnian paradigm shift has taken place in the nuclear policy world. Not yet.

The momentum of the evolving and sophisticated humanitarian initiative within the nuclear non-proliferation regime is significantly raising the humanitarian imperative in discussions within the nuclear non-proliferation multilateral fora. At the 2015 NPT RevCon, [the joint P5 statement](#) was notably dismissive of the discourse consolidated by the initiative (and the wording agreed by consensus in the 2010 NPT RevCon Final

Document) by deliberately using the term ‘severe consequences’ instead of ‘catastrophic humanitarian consequences’. Words matter in diplomacy and this choice of terminology was particularly unfortunate vis-à-vis already fraught ‘atmospherics’ in the NPT review process. As the nuclear non-proliferation constituencies and the strategic deterrence constituencies remain [disparate constituencies engaged in enclave deliberation](#), even the gradual consolidation of a normative and human security imperative vis-à-vis nuclear weapons discourse by NNWS in the NPT review process and the UNGA and efforts to stigmatize nuclear weapons, will continue to struggle to make an actual impact on the strategic nuclear deterrence constituencies. The efforts to stigmatize and delegitimize nuclear weapons by the evolving humanitarian initiative will however continue to press nuclear weapons states (NWS) in the multilateral context.

II. CTBT at 20: declaratory support, but political priority?

In 1996, the Comprehensive Nuclear-Test-Ban Treaty (CTBT) opened for signature. The CTBT is a multilateral treaty that bans all nuclear explosions on Earth. Its predecessor, the 1963 Partial Test Ban Treaty (PTBT), banned nuclear explosions except for underground testing. Between 1945 and 1996, over 2000 tests were conducted by the five NPT nuclear-weapon states. Since 1996, India, Pakistan and the DPRK have conducted around half a dozen tests. A ban on testing limits further development of nuclear explosive devices. Twenty years since the CTBT opened for signature, the Treaty has not yet entered into force given the pending necessary ratifications by eight Annex 2 states (China, the DPRK, Egypt, India, Iran, Israel, Pakistan and the United States). Annex 2 states are the 44 states that participated in the negotiations of the CTBT and possessed nuclear power or research reactors at the time.

Trite but true: political will vs policy priorities

Twenty years on, the bottom line ultimately remains languishing political will. Let’s be honest—the CTBT is not a priority for most states who have yet to sign or ratify this treaty. If this issue had been a policy priority for states, there would have been positive progress towards ratification by now, despite domestic hurdles. Some Annex 2 states may be increasingly perceived to be holding CTBT entry-into-force hostage to other regional issues and priorities.

Political will is again tested when those few windows of opportunity for exerting political leverage on other states vis-à-vis non-proliferation and disarmament are dismissed for more pressing policy objectives. In bilateral nuclear cooperation deals with India, NPT states who advocate routinely for the entry into force of the CTBT—including the US and Australia—could have used the negotiation of a bilateral commercial cooperation deal to include some requirement for India to progress on its CTBT status. More significantly, if the Nuclear Suppliers Group (NSG) has to take a decision in the future on admitting India into the NSG as a participating government, then the pre-condition of adhering to nuclear non-proliferation conditions such as ratifying the CTBT could be pushed. Yet these small windows of opportunity for bilateral or multilateral leverage on non-proliferation priorities are squandered.

In a similar vein, one could wonder whether requiring Iran to ratify the CTBT was sacrificed early on in the negotiation process of the multilateral deal seeking to curtail Iran's nuclear activities. Of course, more pressing objectives vis-à-vis Iran's nuclear program were at stake. The CTBT and missile development issues were expendable.

If CTBT entry-into-force is indeed a priority for states of the international community, as oft heard in high-level declarations of support and urgency for this issue, political will and determination for the CTBT should align with policy priorities. It currently doesn't and, as evidenced by bilateral nuclear cooperation agreements, securing trade policy objectives seem instead to be prioritized.

With the DPRK's continued defiance of the nuclear testing moratorium, more than high-level statements of condemnation and expressions of regret need to take place following suspected nuclear tests and missile-related activities. China seems to be finally exerting some pressure on the DPRK in the UNSC and via bilateral channels after all these years of acquiescence. Concerted and united action by the international community and the UN Security Council needs to be taken against the DPRK. Such action should include curtailing bilateral trade relations with the DPRK. Again, this will require policy priorities—trade versus non-proliferation—to be assessed by governments. Furthermore, states promoting a normative and legal ban on nuclear weapons, should assess how a regime such as that of the DRPK will be unresponsive to yet another legal norm. With regional tensions and security concerns high in North East Asia, proponents of a nuclear ban need to be responsive to valid regional security concerns about the DPRK's activities and pursuits. This will entail the

difficult task of assessing what alternatives to nuclear weapons can credibly reassure U.S. allies (such as Japan and South Korea) under extended nuclear deterrence.

Definitional issue: does nuclear testing constitute nuclear use?

There is a definitional issue which remains to be addressed adequately within the non-proliferation literature: does nuclear testing constitute nuclear use? Individuals affected by nuclear testing definitely consider the testing of nuclear explosives and devices as nuclear use. In his intervention at an [April 2016 CTBTO discussion panel](#), [UN Secretary-General Ban Ki-Moon](#) argued that bringing the CTBT into force would honour the victims of nuclear testing. The Secretary-General noted that nuclear testing poisons water, causes cancers and pollutes the environment with radioactive fallout for generations.

Whilst most states, academics and analysts would consider the explosion of nuclear devices at Hiroshima and Nagasaki the two instances of nuclear use, many — including victims of nuclear testing— would argue that nuclear testing actually constitutes nuclear use. This is based on the detrimental effects and impact that nuclear testing has had on individuals, communities and the environment where these tests were conducted. In Australia, “nuclear nomads” from aboriginal communities have been forced to leave their spiritual lands. In the South Pacific, including the Marshall Islands, many communities are still living with the long-term reproductive health implications from the nuclear testing that was conducted on their territory.

During this year, marking the 20th anniversary of the CTBT, it may therefore be fitting to have an honest conversation about whether the international community ought to start considering and reframing our understanding and discourse of what actually constitutes nuclear use. This wouldn't be politically popular, given the many states who have conducted nuclear tests. Given the highly contentious discord and fractures in the multilateral nuclear non-proliferation and disarmament fora—the NPT review process, the UNGA First Committee and the Open Ended Working Group taking forward multilateral nuclear disarmament negotiations (OEWG)—in multilateral discussions of pathways towards nuclear disarmament and the humanitarian consequences of nuclear weapons, discussions of reframing the discourse on nuclear testing as nuclear use may add further contention. It could, however, also serve to discursively elevate the issue of nuclear testing, and strengthen

the case for entry-into-force of the CTBT. Additionally, it would raise the political costs of future nuclear tests. It does however remain an issue—along with several others raised in this short piece—which ought to be assessed and adequately discussed, even if only in wonky academic circles.

III. **The re-emergence of nuclear deterrence**

Following Moscow's aggressive actions in Crimea and eastern Ukraine, the salience of nuclear weapons and the role of nuclear deterrence in security and defence doctrines is re-emerging in European political discussions, particularly regarding NATO's posture. This re-emergence of the relevance of nuclear deterrence is taking place at the same time as the discussions for negotiating a ban on the possession, threat of use, and use of nuclear weapons are taking place in Geneva.

Based on '[the resurgence of state-based threats](#)', Professor Wyn Bowen [argues](#) that the UK's recently [published](#) 2015 Strategic Defence and Security Review (SDSR) has 'brought deterrence back to the centre stage for the United Kingdom more than any other time since the end of the Cold War'.

Despite Jeremy Corbyn's statements on Trident, elite debates have largely remained [limited](#) to [discussions](#) of whether [the UK should build four new nuclear-armed ballistic missile submarines in order to ensure continuous at sea deterrence \(CASD\)](#).

Another key debate within NATO concerns how the alliance might re-articulate, [refresh](#) and [clearly](#) communicate its nuclear posture to reflect the current geo-strategic environment in the 2016 Warsaw Summit communique. NATO's former Deputy Assistant Secretary General for Weapons of Mass Destruction Policy and Director for Nuclear Policy, Guy Roberts, [argued](#) that 'to be fully credible, NATO's nuclear posture and policy needs to be firmly articulated and communicated to Russia and other would-be adversaries'.

Furthermore, it was recently [argued](#) at the 2015 EU Non-Proliferation and Disarmament Conference that 'we no longer have a debate about the potential withdrawal of the [160-200](#) theatre nuclear weapons (TNW) still in [Europe](#). The debate instead now focuses on [the role of nuclear deterrence in the broader defence posture](#) of the NATO alliance. [Guy Roberts](#) argues that 'if Russia continues to use

nuclear threats and intimidation tactics, then the West will need to plan deterrence, response, and escalation control options that are credible and particularly tailored to the mindset of the Russian leadership. Otherwise, Russia may see its own rhetoric as validated and NATO as weak’.

Possible ways forward?

So, what are possible ways forward vis-à-vis multilateral nuclear disarmament goals as mandated by the NPT in the current security environment? Given the re-ascendance of perceptions of imminent state-based security threats, how can we move from increasing frustrations among NNWS and procrastination or obstruction by states towards constructive engagement? Technical, legal and normative proposals exist to further progress towards nuclear disarmament commitments by NPT member states.

Legal Approaches

Many NNWS that are supporting the evolving [Humanitarian Initiative](#) are pursuing a legal measure that would ultimately delegitimise nuclear weapons use and possession. Proposals exist for a group of NNWS to pursue such a legal ban on nuclear weapons even without the participation of the five NWS and the other four non-NPT nuclear possessors (Israel, India, Pakistan and North Korea). Proponents [argue](#) that by concluding a legal ban, an international norm delegitimising nuclear weapons will be established, regardless of engagement by states with nuclear arsenals. The multilateral fora addressing nuclear disarmament have been subject to intense contention given the postures on this issue.

As voted for by 135 states at the 2015 [session](#) of the First Committee, the 2016 sessions of the Open-Ended Working Group (OEWG) have served as a multilateral forum for discussions on the legal gap vis-à-vis nuclear weapons and discussions for progress towards nuclear disarmament commitments, despite no participation by any NPT NWS. Since 2009, the five NWS have been pursuing their own discussions on disarmament, known as the [P5 Process, with limited results](#) even before the NATO/Russia schisms over Ukraine.

In 2014, the Marshall Islands initiated a different legal approach towards demanding accountability vis-à-vis nuclear disarmament progress through the [Global Zero lawsuits](#). Whether this approach through the lawsuits filed in the International Court of Justice will bring effective results – other than grabbing headlines and [elevating the issue](#) of nuclear disarmament on the international agenda – remains to be seen.

While a nuclear ban may be a key long-term normative and legal aim for some NNWS, the [Comprehensive Nuclear-Test-Ban Treaty \(CTBT\)](#) (and its sophisticated [International Monitoring System](#)) is a realistic short-term objective. The CTBT is a developed and available legal and technical step towards nuclear disarmament. With the 20th anniversary of the CTBT in 2016, its entry into force should be a policy priority for states looking to bolster the nuclear non-proliferation regime.

In democracies at least, civil society and disarmament advocacy groups could funnel their energy and passion to promoting the establishment of the CTBT, educating the electorate on this issue and lobbying parliamentarians. With broad declaratory support voiced by NPT states parties (and Israel) for the CTBT, further ratifications of this treaty by states with some nuclear capabilities (called ‘[Annex II](#)’, including signatories China, Egypt, Iran, Israel and the US) would significantly strengthen the non-proliferation regime and states’ commitment to disarmament. Recent declaratory [support](#) by US officials (including [Kerry](#), [Gottemoeller](#) and [Moniz](#)) and efforts to re-energise the CTBT debate in the United States are therefore a positive development.

Technical Approaches

Another approach to furthering progress vis-a-vis nuclear disarmament is the US-launched International Partnership for Nuclear Disarmament Verification (IPNDV). This initiative aims at addressing the technical challenges of disarmament [verification](#), bridging NNWS’ and NWS’ understanding of the key measures and practical issues involved in verifying disarmament agreements. The Partnership made progress in establishing three Working Groups and authorised them to move forward with their important technical assignments. Frank Rose [believes](#) that, by concentrating on technical tasks, the Partnership ‘can make real and important progress’ in achieving multilateral cooperation and towards realising disarmament goals.

Several other pragmatic, technical proposals exist in support of reducing nuclear salience in security doctrines, including de-alerting arsenals and reducing stocks of delivery systems. In a *Washington Post* op-ed, former Defense officials [William J. Perry and Andy Weber](#) argued against the implementation of a US nuclear-armed cruise missile system which could heighten the risk of miscalculation by an adversary.

IV. From entrenched postures to cross-enclave dialogue?

Given the current deep divides on how to move forward on nuclear disarmament goals amidst heightened strategic discontents, pragmatic and confidence-building measures, including dialogue and trust-building activities, which enjoy broad support by international actors should be pursued. Frustrations, ineffective criticism and outright obstructions need to be channeled into constructive efforts, at the core of which should be frank and respectful dialogue. This applies to both sides of the debate. Only through unpacking the core assumptions underlying the extreme postures and perspectives on the perceived value of nuclear weapons, can these social constructs begin to be appreciated.

Effective progress towards a secure world without nuclear weapons as the ultimate security guarantee and ultimate insurance policy remains a long and arduous journey that will require open minds, constructive dialogue and a mix of various technical and legal measures at the right time. The dislodging of deeply entrenched postures and institutional cultures won't happen in the short-term, even if a normative and legal ban is attained in 2017 by a group of like-minded NNWS. Agreement within existing enclaves could lead to consolidated statements and messages, but without a broader inclusivity (of states), it remains doubtful that such efforts will effect actual policy change.

Following the outcome of the 2015 NPT RevCon and the momentum towards calling for the negotiation of a nuclear ban in the 2016 OEWG sessions, the five NWS are faced with the challenge of soothing perceptions of their lack of commitment to their Article VI obligation to pursue “a treaty on general and complete [nuclear] disarmament”. Whether the current international tensions between Russia and the West will test the solidarity of the NWSs within the NPT P5 Process, as well as bilateral arms control measures, remains to be seen.

Bridging deterrence and disarmament constituencies

There needs to be a start to a long-term initiative for progress on a greater understanding of policy which would make the use of nuclear weapons less of a possibility. Given the failure of states parties of the NPT to agree on a consensus Final Document at the 2015 NPT Review Conference, with the domestic debates on the UK government decision on Trident replacement, and the 2016 NATO Warsaw Summit, such a proposed project is particularly timely and necessary in order to bridge existing separate dialogues and ‘enclaved deliberations’ on nuclear weapons policy. The international community is witnessing calls for an increased reliance on nuclear deterrence in response to Russian and North Korean activities on the one hand, and with calls on negotiating a nuclear ban in the 2016 Open Ended Working Group (OWEG) at the UN in Geneva on the other hand. The perceptions of the role of nuclear weapons as a core element of national security doctrines and a basis of global strategic stability are being contested by those who perceive the risks of the existence of nuclear weapons as a threat to human security.

This project will engage and stimulate meaningful dialogue between separate constituencies. The ultimate goal is to promote informed, respectful, and frank engagement and dialogue between these groupings, removing the current barriers and constructs to engagement. By convening key stakeholders of each constituency and through setting a progressive yet balanced agenda which addresses underlying assumptions and rationale for each perspective towards nuclear weapon possession, doctrine and policy, we will actively create a dialogue across the divided groupings.

Until deeply engrained assumptions about nuclear weapons possession and the role of nuclear weapons in today's security doctrines are deconstructed, progress will remain difficult. Engagement is not currently taking place between the deterrence and disarmament constituencies. The proposed project aims to identify the core assumptions in nuclear deterrence policy and nuclear disarmament in order to engage with those who are advocating these. By addressing the assumptions which are at the basis of the two sides of this policy debate, and facilitating direct and respectful engagement on technical and political implications of each posture, we believe we may be able to effect greater appreciation of the policy debate.

There is a need to bridge the nuclear disarmament and nuclear deterrence constituencies in order to foster informed and constructive dialogue on global nuclear

weapons policy. The purpose of such a pursuit will be to convene key stakeholders of the policy constituencies on the nuclear weapons policy debate and foster informed, constructive and frank dialogue between key individuals in the nuclear deterrence and nuclear disarmament constituencies in order to contribute to consensus-building in the 2020 NPT review process. This effort could ideally convene key stakeholders of the two disparate policy constituencies in the nuclear weapons policy debate and foster informed, constructive and frank dialogue between key individuals in the nuclear deterrence and nuclear disarmament communities. A high-level Track 1.5 workshop, followed by a side-event briefing at the 2017 NPT PrepCom, could establish a dialogue channel and foster a greater understanding and appreciation of diverging pathways towards progress on NPT Article VI commitments. This initial step of establishing a dialogue channel and network of key individuals to start bridging these divided communities for a longer-term initiative for promoting dialogue on nuclear policy, would serve to ameliorate some of the frustrations vis-à-vis nuclear disarmament pathways encountered at the 2015 NPT Review Conference, thus contributing towards consensus-building and fomenting positive atmospherics for the 2020 NPT review cycle. Given the challenges faced at the 2015 NPT Review Conference in reaching consensus on various issues, including the diverging views on pathways towards progress on disarmament and the humanitarian initiative, a high-level forum for informed and constructive dialogue on nuclear weapons policy involving key drivers and experts of disarmament and deterrence policy is timely. The two constituencies relevant to these separate camps of the nuclear weapons policy debate rarely engage in sincere dialogue on the issues relating to nuclear weapons. They remain distinct and divergent constituencies, perpetuating the views within and excluding assessment of external or opposing views and arguments. The initial aim is therefore to convene key stakeholders from the separate constituencies with the purpose of exposing, addressing, and awareness-raising on the fundamental assumptions, social constructs and understandings (both technical and political) of specific issues of nuclear weapons policy. Convening the constituencies would be the beginning of a long-term process of convening the disparate discussions on nuclear policy in order to promote a balanced and broader understanding of the divergent postures vis-à-vis the role of nuclear weapons to address security concerns. Whether the appetite exists at this time for bridging efforts—particularly with the growing momentum (formalized through the OEWG) reaching for a conference in 2017 to negotiate a ban instrument on nuclear weapons—remains an open question.