



# Los Alamos Study Group

*Nuclear Disarmament • Environmental Protection • Social Justice • Economic Sustainability*

## Reflections on the negotiations so far

June 24, 2017

Dear colleagues --

It was wonderful to see so many of you in New York, albeit briefly.

We have just two weeks to go on negotiations. Trish and I hope that the issues of greater importance will make it to the top of negotiating states' agendas, while issues of lesser importance (and especially those which are hopelessly misplaced in this negotiation, see below), will not suck a fatal amount of air from the room or otherwise screw up the treaty. This could certainly happen.

Various elements of a human rights agenda, which have partially displaced nuclear disarmament in ICAN deliberations and in the draft treaty, may be starting to serve as a social and political compensation for what could be an incomplete ban treaty. These gestures, however gratifying, won't affect nuclear weapons policies and do not have much traction on the issues that will provide the future disarmament leverage we need.

We believe it is very important to make the treaty really "bite" for any nuclear umbrella states. It is NOT important for them to join the treaty right away -- or, if they do not REALLY change their policies, ever. It is the process of resistance in civil society which will produce disarmament, not the treaty by itself, or nice conversations in rooms with our governments. We want to put these states between a solid rock and a very hard place. Without real political *sturm und drang* in these states, this nuclear umbrella-holder -- the US -- will not change. The US non-paper to NATO is a prescription for what needs to happen -- pain, to US alliances.

To repeat, this treaty is not going to produce nuclear disarmament. The beguiling notion that it will is dangerous. For example, a lot of people -- states and NGOs alike -- seem to think that this treaty should, or can, provide a framework for disarmament by nuclear weapon states. That is a few bridges too far. This too is partly taking the place of fashioning concurrence on strong prohibitions, e.g. on transit. Impossible tasks are taking up a lot of negotiating time.

The more pressure from civil society there is in umbrella states because of their non-compliance with NWCT requirements, the more disarmament pressure there will be. When umbrella states join the treaty, how will it be possible to maintain that pressure? Once that denouement occurs, other huge issues will then politically eclipse nuclear weapons -- austerity, inequality, precarity; economic decline; social cohesion. Merely abandoning umbrella status by means of, say, a declaration, and then joining the treaty, accomplishes no nuclear disarmament, in itself. It would squander the opportunity for continued struggle and resistance.

I listened carefully to the notion of a "Goldilocks" ("just right") level of pressure on umbrella states but in the final analysis I think the more pressure the better.

The status quo is very powerful. Thousands of people will work to minimize the effects of this treaty. They have begun already. Even our own congresswoman has been briefed on why the treaty will be irrelevant. To the extent there is no political turmoil and realignment as a result of the treaty, it will be irrelevant.

Actual nuclear disarmament, subsequent to producing a treaty, will require dismantling some of the security structures that were created in the decades after World War II, not just nuclear but conventional strike forces as well. Russia will never disarm until NATO's proven belligerence and threat postures diminish. Make no mistake, it is the "nice" countries of NATO which have been the aggressors in the post Cold War era -- in the former Yugoslavia (illegally), in Libya, in Syria (illegally), in Afghanistan. Some NATO countries are abetting what appears to be attempted genocide by Saudi Arabia in Yemen. Nuclear disarmament is currently hostage to NATO's

postures and policies, among other forces. For the ban treaty to be an "effective measure" in the sense of NPT Article VI, NATO's threat to world peace is going to have to be addressed.

All the very complex issues surrounding the process of post-accession disarmament by nuclear weapons states do not belong in this treaty, in our view. They do not lend themselves to a closed-form outline or framework in ANY context. Every state will be different, and in some cases bilateral arrangements will dominate. Some technical details relating to design and production probably should remain secret. In the case of the US and Russia, the best will in the world will never be able to close the books on nuclear materials, *ever*. There will never be irreversibility in the sense it is being pursued; there will never be transparency. There will *never* be full verification. The standard which applies to, say, South Africa with its tiny, confined nuclear weapons program will never apply to the major nuclear weapon states which have tons of *missing* fissile material.

After decades of investment, disposition of known fissile material stocks in the US is extremely problematic. The problem is largely under the control of incompetent contractors who are milking the government for billions. I am not sure how fissile materials issues got into this treaty. These issues are completely intractable in the context of this treaty.

If, as seems the case, negotiators are intent on creating a disarmament mechanism WITHIN THIS PARTICULAR TREATY, in addition to the myriad unpredictable ways disarmament could take place OUTSIDE but BECAUSE OF this treaty, perhaps the best way to do that would be with a "to be determined" placeholder article, such as draft Article 5 in the President's May 22 draft. I thought and still think Article 5 was unnecessary, but it is infinitely preferable to the more specific proposals on the table, such as the South Africa proposal.

With some repetition, here is a restatement of some of these principles

The Treaty should have strong core prohibitions and related obligations that have as much operative effect as possible on systems and structures of nuclear deterrence. That is, the Treaty should limit and impede the nuclear deterrence and nuclear war preparations of nuclear-armed states who are not states parties. The Treaty's normative pressure should be understood in practical, material terms. Core prohibitions should:

- Require complete renunciation of nuclear weapons and extended nuclear deterrence on the part of any state proposing to accede, expressed not only in declarative form but also in every relevant *material* way possible, such as:
  - Prohibition of assistance in planning and preparation for nuclear threat or use (it is not necessary to add the word "military," since the uses of nuclear weapons are primarily political);
  - Prohibition of transit of nuclear weapons through territory, territorial waters, air space, and port calls (good language is available and has been discussed -- I missed the detailed discussions this past Thursday);
  - The more general language about assistance in the President's draft (Article 1.1 paragraphs f and g);
  - Financial assistance;
- Impede, to the maximum practical extent, planning, preparations, and deployments for nuclear war on the part of nuclear weapons-armed states *without assuming they become states parties* (for example via bars on transit and on financial assistance); and meanwhile
- Make no additional verification and inspection demands on non-nuclear-armed states parties to the Treaty on the Nonproliferation of Nuclear Weapons (NPT).
- The Treaty should not attempt to provide a framework for nuclear disarmament by nuclear-armed states. Doing so leads immediately into intractable issues that we believe do not belong in this treaty. They are also not an explicit part of the mandate given by the General Assembly. These short negotiations cannot properly encompass these issues, and in their brevity were never designed to encompass them. It will not be possible to devise a framework for multilateral nuclear disarmament for nine very different states, none of which are present in these negotiations. Each of these is subject to different circumstances and

unpredictable developments. At most a placeholder article similar to Article 5 in the President's draft CPNW is needed.

- Obviously, the Treaty should not be subordinated to any other treaty or understanding. The misinterpretation of the NPT offered by some members of the P-5 must be rooted out; that is the purpose of this Treaty.
- Attention to a human rights agenda should not take the place of strong operative elements that lead toward nuclear disarmament, the prevention of nuclear war, and general and complete disarmament (GCD). In general, such an agenda is misplaced in this treaty.

Good luck, everybody. We are in the thick of our other responsibilities here but are following developments closely, with every good wish and prayer.

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