

**The Way Forward to a World Free of Nuclear Weapons
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I'm going to start with history – because to know where you're going it helps to know where you're coming from.

Five months after the U.S. nuclear bombings of Hiroshima and Nagasaki, in its very first resolution, unanimously adopted on 24 January 1946 at the London session, the United Nations General Assembly established a commission to make specific proposals for, among other things, "the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction".

This effort failed, but the General Assembly persevered. Thus in resolution 808A unanimously adopted on 4 November 1954, it concluded:

“that a further effort should be made to reach agreement on comprehensive and co-ordinated proposals to be embodied in a draft international disarmament convention providing for

- (a) The regulation, limitation and major reduction of all armed forces and all conventional armaments;
- (b) The total prohibition of the use and manufacture of nuclear weapons and weapons of mass destruction of every type, together with the conversion of existing stocks of nuclear weapons for peaceful purposes;
- (c) The establishment of effective international control, through a control organ with rights, powers and functions adequate to guarantee the effective observance of the agreed reductions of all armament and armed forces and the prohibition of nuclear and other weapons of mass destruction, and to ensure the use of atomic energy for peaceful purposes only”.

In the early 1960s, the US and the Soviet Union also engaged in discussions regarding general and complete disarmament (GCD). However, the US-Soviet discussions were not about a GCD treaty per se.

The NPT was a departure from the GCD approach. It focused on a particular weapon, and moreover acknowledged that some states would temporarily possess the weapons. However, the GCD approach survived in the Article VI reference:

Each state party undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general complete disarmament.

After the NPT was signed, the Eighteen Nation Disarmament Committee, under US and Soviet leadership, adopted an agenda which referred to elimination of nuclear stockpiles under the heading of effective measures and listed GCD under a separate item. On 15 August 1968, the ENDC adopted an agenda whose first item was listed under a heading taken from Article VI:

- “1. Further effective measures relating to the cessation of nuclear arms race at an early date and to nuclear disarmament. Under this heading members may wish to discuss measures dealing with the cessation of testing, the non-use of nuclear weapons, the cessation of production of fissionable materials for weapons use, the cessation of manufacture of weapons and reduction and subsequent elimination of nuclear stockpiles, nuclear-free zones, etc.
2. Non-nuclear measures. Under this heading, members may wish to discuss chemical and bacteriological warfare, regional-arms limitations, etc.
3. Other collateral measures. Under this heading, members may wish to discuss prevention of an arms race on the sea-bed, etc.
4. General and complete disarmament under strict and effective international control.”

Subsequent to entry into force of the NPT, the practice of States has been to negotiate separate conventions on prohibition and elimination of weapons of mass destruction, with the 1972 Biological Weapons Convention and the 1993 Chemical Weapons Convention. The International Court of Justice took note of this practice, stating that “The pattern until now has been for weapons of mass destruction to be declared illegal by specific instruments.” The practice of States has also been to negotiate separate treaties on other types of weapons, such as anti-personnel landmines and cluster munitions. All of these matters are considered by the General Assembly under the rubric of “general and complete disarmament.”

In light of this history, a comprehensive convention on nuclear disarmament (or instruments to the same end) would be an effective measure of disarmament, as referred to in the first prong of Article VI. And, like the conventions on chemical weapons and biological weapons, it would partially fulfil the general and complete disarmament prong of Article VI. It could be considered a treaty on general and

complete nuclear disarmament to accompany the treaties on general and complete disarmament of biological and chemical weapons.

In the 1990s, lawyers, scientists, physicians, former diplomats and officials developed a Model Nuclear Weapons Convention. At the request of Costa Rica it was circulated by the UNSG in 1997; a revised version was circulated by the UNSG at the request of Costa Rica and Malaysia in 2007. You can see the model at www.lcnp.org.

Why did I go through this history? Because it provides useful back ground for looking forward. A few points:

1) There's already an architecture in place. Indeed, let me say, provocatively, there is in a certain sense there is already a nuclear weapons convention. That is the NPT. It verifiably prohibits 185 countries from acquiring nuclear weapons, subject to monitoring by the IAEA and enforcement by the UN Security Council (via safeguards agreements).

2) In a certain sense there is already a framework agreement, of a very general kind. That is Article VI. The preamble identifies what is to be accomplished, and mentions one treaty – CTBT to be negotiated. And there is the review process. All this is somewhat similar to the UN Framework Convention on Climate Change.

3) Regarding a convention, it is sometimes said that this a toxic word, to be avoided because it prevents discussion. I think this basically reflects the fact that the Permanent Four (US, UK, France, Russia) at least are not prepared to discuss a timebound program for abolition; it's not about the word. But I would add that perhaps talking about a convention, on the model of the Chemical Weapons Convention, conveys too much the impression that it's a terribly daunting task. In the nuclear arena, though, we are not starting from scratch. There is the safeguards system, the IAEA, the NPT obligation of non-acquisition applying to most states; the CTBT and CTBTO; the US-Russian/Soviet arms control history; and more.

In some ways a nuclear disarmament instrument could just be added to the existing architecture.

Optimally this would be a global multilateral treaty, but note that there could be an agreement among possessor states with some representation from other states and international organizations.

If necessary, basic obligations prohibiting use and setting a time period for the completion of elimination could be agreed, with other aspects subject to further negotiation – this would be a framework approach.

An Open-Ended Working Group – as contained in the draft 2015 NPT Final Document – could be a way to pursue a convention or framework on the global elimination of nuclear weapons. Here's what the draft said:

154(19). The Conference recommends that the United Nations General Assembly establish at its seventieth session an open-ended working group to identify and elaborate effective measures for the full implementation of article VI including legal provisions or other arrangements that contribute to and are required for the achievement and maintenance of a world free of nuclear weapons. The legal provisions could be established through various approaches, including a stand-alone agreement or a framework agreement. ... [T]he Conference recommends that the open-ended working group conduct its work on the basis of consensus. ...

4) Regarding a ban treaty – by which I mean an agreement negotiated and concluded and brought into force by non-nuclear weapon states only – what would it add to the existing normative environment?

There is already a verified prohibition on acquisition of nuclear weapons by almost all states in the world.

There are prohibitions of use of nuclear weapons in regional NWFZs, though they are not stated in universal form.

Who knows what would emerge if non-nuclear weapon states got together? But to me it appears that a ban treaty could:

- 1) reaffirm existing obligations relating to non-possession and disarmament
- 2) state a prohibition of use in universal, categorical form – not in any circumstance

This would confirm and codify the illegality of use of nuclear weapons under existing rules of international law, specifically international humanitarian law.

It would make the contribution of entrenching the obligation of non-use of nuclear weapons. But it would not be directly applicable to states not party to the treaty.

Provisions as to non-cooperation with nuclear weapons – divestment from producers, non-cooperation with military aspects of reliance on nuclear weapons, commitment to prosecute users of nuclear weapons, etc. – could be set out in a ban treaty, or in an accompanying political declaration.

I mention an accompanying declaration because a ban treaty would have to be written quite carefully if it was envisaged that some nuclear-armed states or states in nuclear alliances could become parties and subject to a categorical prohibition of use. The declaration could include commitments appropriate for non-nuclear weapon states now, but not necessarily for nuclear dependent states that might later join.

Note also that, without adopting a ban treaty, it could be possible for the humanitarian initiative states to adopt a very strong political declaration committing them take concrete steps of non-cooperation with nuclear weapons among other things.

A ban treaty type approach could be complementary to the frustrating but necessary processes of disarmament within existing channels – or new ones, for instance a Nuclear Disarmament Summit.

I am not convinced by the approach of a ban treaty, but if non-nuclear weapon states choose to do this I'd support it.

5) I started out by explaining that nuclear disarmament was originally embedded in a treaty on general and complete disarmament. Given the rather serious impediments to further nuclear arms control, let alone elimination, rooted in missile defenses, non-nuclear strike strategic systems, cyber capabilities, etc., I think we need to revisit the relationship of nuclear abolition to controls on other strategic systems. And the UN Secretary-General's Five Point Plan does this.

Thanks very much for having me here, and thanks especially to Bev DeLong and Adele Buckley.