



China and the Nuclear Weapons Prohibition Treaty

Raymond Wang and Tong Zhao

Summary

After the negotiation of the treaty to prohibit nuclear weapons, the danger has increased that the deepening division in the international community about disarmament approaches could drive countries further away from working cooperatively to advance the disarmament objective. As a nuclear weapon state and an emerging global power, China can and should take steps to respond constructively to the treaty and to help mitigate the growing international division. China shares the spirit of the treaty. Some core principles in the treaty also align with China's policy goals. Even as a non-State Party, China can engage substantively with supporters of the treaty in a number of areas. Building on the momentum of the treaty and engaging proactively with non-nuclear weapons states are necessary steps to preserve the international consensus on disarmament and can be an important indicator of China's global leadership.

1. At the conclusion of a United Nations conference on 7 July 2017, 122 countries voted to adopt the Nuclear Weapons Prohibition Treaty (NWPT). Nuclear weapons states (NWS), nuclear possessor states and all but one of the nuclear umbrella states boycotted the negotiations.¹ The one exception among the umbrella

states, the Netherlands, participated in the conference but voted against the treaty. Unlike the United Kingdom, France and the United States, which released a harsh statement against the NWPT,² China has yet to release a statement at the time of writing.

2. While China boycotted the negotiations, it was the most responsive of the five NWS towards the NWPT. China was the only one of the five that did not vote against starting the NWPT negotiation in the UN General Assembly last year. Foreign Ministry Spokesperson Hua Chunying stated on 20 March 2017 that the Chinese goal of a "final comprehensive ban on and total destruction of nuclear weapons" was "fundamentally in line with the purposes of negotiations on the nuclear weapons ban treaty."³

ons under the Treaty on the Nonproliferation of Nuclear Weapons (NPT): China, France, Russia, United Kingdom, and United States. Nuclear possessor states refer to all states that possess nuclear weapons, including those that obtained nuclear weapons outside the framework of the NPT or, as in the case of the Democratic People's Republic of Korea (DPRK), illegally. Nuclear umbrella states refer to states that rely on security assurances from a NWS based on the latter's nuclear weapons.

² "Joint Press Statement from the Permanent Representatives to the United Nations of the United States, United Kingdom, and France Following the Adoption of a Treaty Banning Nuclear Weapons," US State Department, 7 July 2017, <https://usun.state.gov/remarks/7892>

³ Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on 20 March, Ministry of Foreign Affairs of the PRC, 20 March 2017, http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510

¹ NWS are the five states allowed to possess nuclear weap-

3. At this point in time, the NWPT appears unacceptable to China, and indeed to all nuclear weapons possessor states. Since China possesses and stockpiles nuclear weapons and has a policy of retaliating with nuclear weapons after a nuclear strike by an adversary, it cannot adhere to the core prohibitions of the NWPT. Nevertheless, China shares much of the spirit behind the treaty. Certain principles in the NWPT also align with Chinese policy goals, both domestic and international.

4. Moreover, the treaty poses challenges for the existing policies of some NWS, even if they stay out of the treaty. For example, the treaty creates new difficulty for the United States to maintain the extended nuclear deterrence relationship with those allies that may be treaty supporters, but are unable to sign it until this difficulty is resolved. In comparison, the treaty would not undermine China's existing nuclear policies as long as China does not sign it. This leaves room for China to avoid denouncing the NWPT effort while still being able to protect its key security interests. Looking ahead, China can and should seek to actively engage with the NWPT and continue to promote disarmament as a non-State Party.

5. This paper first examines the debate on "transit," an issue that could affect China even as a non-State Party, and explains why it ultimately will not undermine China's existing policies. It then highlights some key provisions of the treaty that overlap with China's broader nuclear disarmament agenda. As such, China should seek to engage with the NWPT supporters to find ways to advance these objectives. The last part of the paper outlines areas in which China can constructively engage with the NWPT and contribute to its spirit even if China remains a non-State Party for the foreseeable future.

[665401/t1447146.shtml](https://www.un.org/Depts/under2000/665401/t1447146.shtml).

Similar language can also be found in China's working paper submitted to the 2017 NPT PrepCom titled "Nuclear Disarmament and Reducing the Danger of Nuclear War" NPT/CONF.2020/PC.I/WP.36 para. 1.

Potential Impact on China

6. Article 1 of the NWPT contains a comprehensive list of prohibitions. It bans a State Party from developing, testing, producing, possessing, stockpiling, transferring, using and threatening to use nuclear weapons, among other key prohibitions. Furthermore, Article 16 does not allow a State Party to join with reservations. As a result, China will not join or endorse the treaty under the current circumstances.

7. As a non-signatory, China will not have a legal obligation to implement the prohibitions. That said, China's interests and policies could still be affected, because the legal obligations on the States Parties may make them take policy measures that could create difficulties for China to maintain its existing nuclear posture.

8. An important potential concern for China is over the issue of transit and stationing. This issue could affect China even if it does not join the NWPT. Specifically, China has a growing fleet of nuclear ballistic missile submarines (SSBN) and these submarines need to conduct patrols outside China's territorial waters. This might be problematic should China's neighbouring countries interpret the NWPT to include an obligation for them to prevent the transit of Chinese SSBNs in their exclusive economic zones (EEZs). As China builds up its SSBN fleet, this issue is becoming increasingly important for China. Our analysis shows that ambiguities in the NWPT can alleviate such concerns, and as such the NWPT will not have serious secondary effects on Chinese policy options.

9. Article 1(g) prohibits "stationing, installation or deployment" of any nuclear weapons in a State Party's territory or jurisdiction. The treaty offers no specific definition of "stationing," but according to other international legal documents, such as nuclear weapon free zone (NWFZ) treaties, "stationing" usually refers to "implantation, emplacement, transport on land or inland waters, stockpiling, storage, installation and deployment."⁴ According to this com-

⁴ See NWFZ treaties such as the Bangkok Treaty, the Treaty of Pelindaba etc. Treaty texts can be found at the UNODA

mon definition, conducting SSBN patrols in another country's EEZ is not explicitly prohibited, as under the UN Convention on the Law of the Sea, EEZs only grant states limited jurisdiction that does not include exclusive passage rights.⁵ Furthermore, efforts during the negotiation of the NWPT to explicitly include "transit" in Article 1(g) as part of a prohibition on "assistance" failed. This means the prohibition in the NWPT treaty on assisting nuclear weapon activities does not translate into an obligation on States Parties to ensure that SSBNs of non-parties cannot transit their EEZs.

10. This has implications for Chinese nuclear policy. Vietnam, Philippines and Malaysia all have competing claims in the South China Sea with China, and voted in favour of the NWPT. The lack of explicit prohibition in the NWPT makes it unlikely that such claimant countries will feel obligated to ensure that Chinese SSBNs cannot transit in the South China Sea, where EEZs or territorial waters are disputed. Therefore, there is no serious negative impact on China's SSBN patrols in the South China Sea.

Areas of Commonality with NWPT Supporters

11. As discussed above, the NWPT will not affect Chinese nuclear policy with China as a non-party. Rather, China can benefit from the momentum created by the treaty in areas where their positions align and where China can make concrete contributions to the spirit of the NWPT. Some key elements of the treaty are consistent with Chinese positions and interests, so China should seek creative, constructive ways to advance dialogue on these issues.

Prohibition on Threat of Use of Nuclear Weapons

12. The prohibition of the threat of use of nuclear weapons is provided in Article 1(d), and is an area of significant overlap between Chinese and NWPT positions. China is the only

NWS with an unconditional and sole purpose no-first-use (NFU) policy.

13. To be sure, there is a difference between an NFU policy and a prohibition on threat of use. After all, China is still threatening to use nuclear weapons in retaliation against a nuclear attack. That said, China's "threat of use" only applies to other nuclear possessor states and only to scenarios where another country has crossed the nuclear threshold first against China. In addition, an NFU policy towards all non-NWS and NWFZs is a logical and significant step towards achieving a comprehensive prohibition on threat of use.

14. Indeed, in the NPT, China has consistently called on the NWS to "unequivocally undertake not to be the first to use nuclear weapons at any time and under any circumstance, and undertake unconditionally not to use or threaten to use nuclear weapons against non-nuclear-weapon States or nuclear-weapon-free zones."⁶

15. The NWPT initially did not include a prohibition on the threat of use. It was added to the text after a concerted effort by a group of states that included Cuba, Egypt, Iran and Kazakhstan.⁷

16. China could use the NWPT as an opportunity to promote an NFU policy among the other NWS. In more concrete terms, instead of submitting a working paper by itself, as it has traditionally done so in past NPT conferences, China could co-sponsor a working paper on NFU with the countries identified above.

17. Domestically, it can also use this as evidence of the international support of its NFU policy and therefore its restrained posture. This is a strong counter-argument against those who hope to see China adopt an escalated nuclear posture.

website,

<https://www.un.org/disarmament/wmd/nuclear/nwzf/>

⁵ Art 56 1(b), UN Convention on the Law of the Sea.

⁶ "Security Assurances," NPT/CONF.2020/PC.I/WP.32.

⁷ Compilation of amendments received from States on the President's draft text dated 22 May 2017, pp. 22–28. See also Nuclear Ban Daily, Vol. 2 No. 9, p. 5, <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/nuclear-weapon-ban/reports/NBD2.9.pdf>

Reducing the Role of Nuclear Weapons in Military Doctrine

18. In 2013, the China Academy of Military Science published *The Science of Military Strategy*, in which the authors suggested that China could move towards a “launch on warning” posture. That is to say, “under conditions confirming the enemy has launched nuclear missiles against us, before the enemy nuclear warheads have reached their targets and effectively exploded, before they have caused us actual nuclear damage, quickly launch a nuclear missile retaliatory strike.”⁸

19. This report is indicative of a broader discussion in China. Some argue that developments in the United States such as ballistic missile defences and conventional precision strike weapons will erode the strategic balance between the United States and China. This concern is exacerbated by the fact that the United States refuses to acknowledge mutual vulnerability with China.

20. This policy debate is still ongoing in China. Although it has not become official policy, an increasing number of voices have recently advocated for China to significantly increase the role of nuclear weapons and to greatly expand its nuclear arsenal. In this regard, the NWPT is a strong political argument against escalating China’s existing nuclear posture. To date, the NWPT is the most comprehensive legal instrument that seeks to minimize the role of nuclear weapons by explicitly prohibiting the threat of use of nuclear weapons, and enjoys overwhelming international support.⁹

21. As such, China can build upon the momentum created by the NWPT both internationally and domestically. Internationally, it could increase pressure on the other NWS to adopt an NFU policy – at least towards certain NWFZs, if not a universal one.¹⁰ It could also co-sponsor

working papers on the issue in the NPT review conference process. Domestically, China can cite the NWPT as evidence of international support for its restrained nuclear posture.

Nuclear Testing and the Comprehensive Test Ban Treaty (CTBT)

22. Article 1(a) prohibits States Parties from testing nuclear weapons or other nuclear explosive devices. The term “test” deviates from the more specific language of the CTBT which refers to “any nuclear weapon test explosion or any other nuclear explosion.”¹¹ This ambiguity was added as a compromise after certain countries tried to include an explicit ban on all forms of testing, which would include non-explosive methods such as computer-simulated tests.¹² Based on the proposed amendments, the majority of states still supported the narrower CTBT definition of “testing.” Although a few countries tried to include an explicit ban on all forms of testing during the negotiations, only Cuba and Nigeria commented on the final text that they would interpret “testing” broadly.¹³ It appears that the vast majority of NWPT states adhere to the narrow definition.

23. China can side with the majority view on the CTBT definition of “testing,” and reiterate its moratorium on nuclear testing. Under this formulation, China would likely not face additional international pressure for continuing non-explosive tests. Such tests are viewed as important for maintaining confidence in stockpile reliability – confidence that maintains strategic stability, which is conducive to eventual disarmament efforts.

24. In the current political climate, support for the CTBT Organization (CTBTO) and the prohibition on testing is a positive for China. China has maintained its support of the CTBT in

⁸ Gregory Kulacki, *China’s Military Calls for Putting its Nuclear Forces on Alert*, Union of Concerned Scientists, January 2016, p. 4.

⁹ Certain NWFZ treaties also have a similar prohibition, but only have regional membership.

¹⁰ For example, China could advocate for NWS ratification of the Protocol of the Southeast Asia NWFZ Treaty, which prohibits the use and threat of use of nuclear weapons

against States Parties and within the NWFZ Article 2, Protocol of the Bangkok Treaty, http://disarmament.un.org/treaties/t/bangkok_protocol/text

¹¹ Comprehensive Nuclear-Test-Ban Treaty, Article 1(1).

¹² A/CONF.229/2017/CRP.1, Article 1(e), Compilation of amendments received from States on the President’s draft text dated 22 May 2017, pp. 22–28.

¹³ This is based on the available negotiation record as reported through Reaching Critical Will, *Nuclear Ban Daily*, Vol. 2 No. 13, 6 July 2017, pp. 6–7.

cent years and certified its first International Monitoring System (IMS) station in Lanzhou in December 2016, with further plans to incorporate more stations into the IMS network.¹⁴ In contrast, the political climate in the United States leaves future support of the CTBTO and the continued moratorium on nuclear testing unclear. The Trump administration has not slashed the CTBTO allocation from the State Department FY 2018 budget, but a bill has been submitted to the Senate that, if passed, would remove all funding to the CTBTO.¹⁵ There are also a few minority voices in the United States calling for resumed explosive testing.¹⁶

25. China could cite the NWPT in the P5 process¹⁷ as a reminder that the moratorium on explosive testing and continued support for the CTBT is crucial for maintaining the world's non-proliferation architecture. In this sense, China would also be acting as a bridge-builder between the NWPT and those NWS that are most sceptical about the CTBT.

Areas of Cooperation

26. Looking to the future, China can and should take a number of additional measures to promote nuclear disarmament and to narrow the gap between itself and the NWPT supporters.

Observer Status

27. China should participate in State Party Meetings as an observer, as provided for in Article 8(5). Observers cannot make statements or interventions, but if the NWPT follows NPT customs, observer states can circulate their own documentation at their own cost during the event.¹⁸ Side events with informal rules of procedure can further facilitate cooperation between non-NWS and China.

Disarmament Verification

28. In the NWPT text, there is no further elaboration on verification of nuclear disarmament other than it will be undertaken by a "competent authority." There are technical reasons for this vagueness. Current technological capabilities present a trade-off between the correctness and intrusiveness of disarmament verification, and there is a lack of "ready-to-deploy technologies to support monitoring and verification activities associated with nuclear weapons in storage or to authenticate an item declared to be a nuclear warhead."¹⁹ Even with less intrusive methods, sensitive data is still collected, albeit with information barriers that would keep this information from the inspecting party.²⁰

29. The NWPT will eventually have to confront these issues and, to this end, China can play a more active role in multilateral efforts on disarmament verification. There are some areas where further research could advance disarmament verification.

30. For example, scholars have proposed a "zero-knowledge protocol" that could assess the authenticity of a "physics package" without

¹⁴ CTBTO Press Centre, "First Station Certified in China," CTBTO, 16 December 2016, <https://www.ctbto.org/press-centre/highlights/2016/first-station-certified-in-china/>

¹⁵ S. 332 – 115th Congress, 2 February 2017, <https://www.congress.gov/bill/115th-congress/senate-bill/332/text?r=474>

¹⁶ James Glanz, "Rick Perry, as Energy Secretary, May Be Pressed to Resume Nuclear Tests," *New York Times*, 27 December 2016, <https://www.nytimes.com/2016/12/27/us/politics/trump-rick-perry-nuclear-weapons.html>

¹⁷ The five NPT NWS are also the five permanent members of the United Nations Security Council, known colloquially as the P5. In September 2009, at the London Conference on Confidence Building Measures towards Nuclear Disarmament, the five began a dialogue process that has continued. The focus in these discussions has been on issues of transparency, mutual confidence and verification, including fulfilment of the requirement to report to the NPT review conferences and preparatory committee meetings. See Gareth Evans, Tanya Ogilvie-White and Ramesh Thakur, *Nuclear Weapons: The State of Play 2015* (Canberra: Centre for Nuclear Non-Proliferation and Disarmament, 2015), paragraphs 1.97–100, <https://cnnd.crawford.anu.edu.au/publication/cnnd/5328/nuclear-weapons-state-play-2015>.

¹⁸ Tariq Rauf, "Preparing for the 2017 NPT Preparatory Committee Session: The Enhanced Strengthened Review Process," *SIPRI Brief*, 25 February 2017.

¹⁹ Martin Rioux-Lefebvre, Andrew Newman and Andrew Bieniaski, "Progress Under the International Partnership for Nuclear Disarmament Verification," Paper submitted to the 58th Institute of Nuclear Materials Management Annual Meeting Proceedings, July 2017, http://www.nti.org/media/documents/NTI_INMM_IPNDV_Paper_Jul2017.pdf

²⁰ Alexander Glaser and Yan Jie, "Nuclear Warhead Verification: A Review of Attribute and Template Systems," *Science & Global Security*, 23 (2015), pp. 157–70.

collecting sensitive information in the first place. For instance, a team at Princeton University demonstrated, on an experimental level, the feasibility of this approach for warhead verification.²¹ A more recent initiative called CONFIDANTE at Sandia Labs is also exploring a new approach based on the zero-knowledge protocol.²² Further research on scalability and reference item criteria can be a potential area of cooperation. In these areas, confidence-building measures between non-NWS and NWS can help bridge the confidence gap created by technical limitations, which can also make inspections more acceptable.

31. Currently, the main multilateral initiatives in this field are the US-led International Partnership for Nuclear Disarmament Verification,²³ and UK-Norway Initiative.²⁴ Of these two initiatives only the latter has one ongoing project on information barriers,²⁵ and the current political climate in the United States may limit the resources available to the former. As such, there is a gap that China is well equipped to fill. To date, China has mostly been conducting independent research at the China Academy of Engineering Physics.²⁶ Joint research with other countries or organizations is taking place but only to a limited extent.

32. China can either engage with existing initiatives, partner with relevant programs, or create its own initiative, preferably with non-NWS partners. A greater level of Chinese support through these channels in the research areas mentioned above will help lay the technical foundations for a verifiable disarmament regime in the future, and help build its image as an important partner and promoter of international nuclear disarmament.

Environmental Remediation and Victim Assistance

33. Article 6 of the NWPT creates positive obligations for States Parties to provide “age- and gender-sensitive assistance” to “individuals under its jurisdiction who are affected by the use or testing of nuclear weapons.” It also obliges parties to take “necessary and appropriate measures towards environmental remediation of areas so contaminated” by nuclear testing.

34. Article 7 of the NWPT encourages States Parties “in a position to do so” to provide assistance to other States Parties. While China is not a State Party, it can still provide assistance to those requiring such assistance. Pakistan and Kazakhstan are particularly relevant for China, especially given their growing importance in China’s Belt and Road Initiative.

35. Environmental and medical damages are still acute in former nuclear test sites in Pakistan and Kazakhstan.²⁷ For example, cancer rates in these areas are significantly higher than that of the rest of the country. A victim’s assistance fund could be set up and assistance on safeguarding contaminated areas, some of which need to be safeguarded indefinitely, could be provided.

36. China can provide technical, educational and financial assistance to these countries. Such assistance programs can be offered and conducted in a transparent manner and even through certain regional frameworks – such as the Shanghai Cooperation Organization. This can help reduce geopolitical concerns from

²¹ Sébastien Philippe, *et al.*, “A physical zero-knowledge object-comparison system for nuclear warhead verification,” *Nature Communications* 7 (20 September 2016), p. 12890.

²² “Overcoming the trust barrier in nuclear weapons verifications measurements,” Sandia Labs News Releases, Sandia Labs, 6 June 2017, https://share-ng.sandia.gov/news/resources/news_releases/warhead_verification/#.WYGdwtOGORs

²³ <https://www.state.gov/t/avc/ipndv/>

²⁴ www.ukni.info

²⁵ <http://ukni.info/project/information-barrier/>

²⁶ Glaser and Yan, “Nuclear Warhead Verification,” p. 163.

²⁷ Shah Meer Baloch, “The Fallout From Pakistan’s Nuclear Tests,” *The Diplomat*, 29 May 2017, <http://thediplomat.com/2017/05/the-fallout-from-pakistans-nuclear-tests/>;

Magdalena Stawkowski, “The continuing danger of Semipalatinsk,” *Bulletin of the Atomic Scientists*, 6 October 2016. <http://thebulletin.org/continuing-danger-semipalatinsk9969>;

“The Semipalatinsk Test Site, Kazakhstan,” International Atomic Energy Agency Website, <http://www-ns.iaea.org/appraisals/semipalatinsk.asp>;

Roman Vakulchuk and Kristian Gjerde, with Tatiana Belikhina and Kazbek Apsalikov, *Semipalatinsk Nuclear Testing: the Humanitarian Consequences*, Norwegian Institute of International Affairs, NUPI Report No. 1, February 2014, <http://large.stanford.edu/courses/2014/ph241/powell2/docs/vakulchuk.pdf>

Russia and other regional stakeholders. Of course, China can go beyond assistance to these two countries – indeed, there is presently no multilateral initiative specifically for victims of nuclear testing. This is an area where China can make a substantive contribution.

Conclusion

37. Cooperating with non-NWS through the prism of the NWPT is in line with China's long-term interests. While regretting that Chinese accession to the NWPT is impossible at the present stage, we argued that certain provisions are compatible with Chinese policy goals. The NWPT does not negatively affect China's existing nuclear policies as a non-State Party. For these reasons, China does not need to respond harshly to the NWPT and should develop a forward-looking policy to further promote nuclear disarmament. Indeed, it can build on the momentum created by the NWPT to engage more broadly with non-NWS. The paper outlined some areas where China can support the spirit of the NWPT concretely.

38. At the global level, the disarmament landscape is increasingly polarized, and can become even more so in the near future, the NWPT was opened for signature in the United Nations General Assembly on 20 September. As China seeks to play a leadership role in global governance, it can and should engage proactively with the international community on disarmament issues that help narrow the gap between NWS and non-NWS. Responding positively to the NWPT and building on its momentum to promote disarmament is a necessary step to preserve the international consensus on disarmament and can be an important indicator of China's global leadership.

The Authors

RAYMOND WANG is an MA candidate at the Middlebury Institute of International Studies at Monterey. He is also a Graduate Research Assistant at the James Martin Centre for Nonproliferation Studies.

TONG ZHAO is a fellow at the Nuclear Policy Program of the Carnegie Endowment for International Peace, based in Beijing at the Carnegie-Tsinghua Center for Global Policy. His research focuses on strategic security issues, including nuclear arms control, non-proliferation, missile defence, space security, strategic stability and China's security and foreign policy. He was previously a Stanton Nuclear Security Fellow with the Managing the Atom Project and the International Security Program at the Belfer Center for Science and International Affairs, Harvard University.

APLN/CNND Policy Briefs

These express the views of the authors, and do not necessarily reflect the views of APLN members or the CNND, or other organizations with which the authors may be associated. They are published to encourage debate on topics of policy interest and relevance regarding the existence and role of nuclear weapons.

APLN and CNND

The **Centre for Nuclear Non-Proliferation and Disarmament (CNND)** contributes to worldwide efforts to minimize the risk of nuclear-weapons use, stop their spread and ultimately achieve their complete elimination. The director of the Centre is Professor Ramesh Thakur. See further <http://cnnd.anu.edu.au>.

The **Asia Pacific Leadership Network (APLN)** comprises around ninety former senior political, diplomatic, military and other opinion leaders from fifteen countries around the region, including nuclear-weapons possessing states China, India and Pakistan. The objective of the group, founded by former Australian Foreign Minister and President Emeritus of the International Crisis Group Gareth Evans, is to inform and energize public opinion, and especially high level policy-makers, to take seriously the very real threats posed by nuclear weapons, and do everything possible to achieve a world in which they are contained, diminished and ultimately eliminated. The co-Convenors are Professors Chung-in Moon and Ramesh Thakur. The Secretariat is located at the East Asia Foundation in Seoul, Republic of Korea. See further www.a-pln.org.

Funding Support

APLN gratefully acknowledges the generous support of the Nuclear Threat Initiative, Washington DC.

Contact Us

APLN, East Asia Foundation
4F, 116 Pirundae-ro
Jongno-gu, Seoul 03535
Republic of Korea
Email: apl@keaf.org
Tel: +82 2 325 2604-6