



Folding the Umbrella: Nuclear Allies, the NPT and the Ban Treaty

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Summary

The adoption of the Nuclear Weapons Prohibition Treaty (NWPT) by 122 states in July 2017 introduced a powerful new dynamic into the stagnant realm of nuclear disarmament. The decision by the nuclear weapon states (NWS) and their nuclear dependent allies to boycott the NWPT negotiations created a schism within the Non-Proliferation Treaty (NPT) community that will not be easily repaired. The NWPT did not come out of the blue, but was in itself a manifestation of the building frustration of non-NWS over the failure of the NWS to deliver on their nuclear disarmament commitments. While sharing some of this frustration, the nuclear dependent allies opted to privilege adherence to the doctrine of nuclear deterrence over advancing nuclear disarmament goals. If the NPT regime is not to suffer serious erosion, these nuclear dependent allies will need to convince their NWS partners to undertake tangible nuclear disarmament action. The Nonproliferation and Disarmament Initiative grouping of states (which includes both pro and anti NWPT states) may have a special role to play in this regard.

1. To fold the metaphorical “nuclear umbrella” it will be necessary to convince those sheltering under it that it is safe to come out and to recognize that the umbrella may be more of a danger than a protection. To understand why the advent of the Nuclear Weapons Prohibition Treaty (NWPT) represents such an existential dilemma for those non-nuclear weapon states (non-NWS) party to the Nuclear Non-Proliferation Treaty (NPT), but under a nuclear umbrella, it is necessary to consider the antecedents to the NWPT. This paper will briefly review the diplomatic developments that led up to the conclusion of the NWPT, the predicament posed by this new direction in nuclear affairs for those non-NWS allied to nuclear weapon states (NWS), and what prospects exist for the non-NWS concerned to take actions that would enable eventual adherence to the NWPT. Particular attention will be paid to the nuclear policies of the North Atlantic Treaty Organization (NATO) as a constraint on non-NWS members of that alliance, but there is much similarity with how non-NATO non-NWS, such as Australia, Japan and South Korea have reacted to these new developments, with the common factor being the reliance of all these non-NWS on US nuclear guarantees.

Origins of the Humanitarian Impact Movement

2. The NPT which entered into force in 1970 and currently boasts 191 states parties has for decades been the foundational treaty governing global nuclear affairs. Its core tripartite bargain provided for the non-NWS to fore-swear ever acquiring nuclear weapons; for the five NWS party to the treaty (US, USSR, UK, France and China) to commit to nuclear disarmament and for all to cooperate in the peaceful uses of nuclear energy. The quinquennial review conferences of the NPT provided opportunities for the states parties to express, if they could agree by consensus on a text, further understandings or commitments with respect to the treaty.

3. As part of the consensus outcome document of the NPT review conference held in 2010 there was an important, if underappreciated at the time, statement that acknowledged “its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons” and reaffirmed “the need for all states at all times to comply with applicable international law, including international humanitarian law.”¹ This statement introduced into the usual, dry strategic discourse of NPT review conferences the language of humanitarian concerns. The statement further recalled for states their obligation to comply “at all times” with the provisions of international humanitarian law. This latter represented a thinly veiled challenge to the doctrine of nuclear deterrence with its provision for the use under certain circumstances of nuclear weapons. Given the requirements of international humanitarian law for discrimination between combatants and civilians and for proportionality in response, it is difficult if not impossible to envision how the use of a nuclear weapon could be rendered compatible with compliance under international humanitarian law.

4. As the International Red Cross and Red Crescent Movement, the guardian of international humanitarian law, put it in a resolution adopted by their Council of Delegates at a meeting in November 2011: [the Council of Delegates] “finds it difficult to envisage how any use of nuclear weapons could be compatible with the rules of international humanitarian law, in particular the rules of distinction, precaution and proportionality.” The resolution further appealed to all states: “to ensure that nuclear weapons are never again used”; and “to pursue in good faith and conclude with urgency and determination negotiations to prohibit the use of and completely eliminate nuclear weapons through a legally binding international agreement.”²

5. The combination of the 2010 Review Conference outcome, the efforts of the International Red Cross and Red Crescent movement and the mobilization of civil society via the International Campaign to Abolish Nuclear Weapons (ICAN), a broad coalition of hundreds of NGOs, provided fertile ground for a handful of non-NWS to begin to exercise a leadership role in challenging the existing nuclear orthodoxy. Three states, Norway, Mexico and Austria in particular came forward to organize and host a series of three conferences on the humanitarian impact of nuclear weapons in the 2013–14 time period. The three conferences, which gathered greater numbers of states and NGO delegations as they proceeded, shared the common goal of highlighting the humanitarian, as opposed to the strategic, consequences of nuclear weapon use. The conference featured an array of presentations that demonstrated the inadequacy of any humanitarian response to nuclear weapon use, the severe effects on global climates of even a limited nuclear exchange, the history of close calls regarding nuclear force accidents and the recognition that the only sure protection from the threat of nu-

¹ Final Document, Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, UN, New York, May 2010, <http://www.un.org/en/conf/npt/2010/>.

² “Working towards the elimination of nuclear weapons,” Resolution 1, Council of Delegates of the International Red Cross and Red Crescent Movement, Geneva, 26 November 2011.

clear weapons was to ensure their complete elimination.

6. The nuclear weapons possessing states declined to participate officially in the three conferences, although the US and the UK did send representatives to the last of the series of conferences which was held in Vienna in December 2014. Non-NWS including nuclear allies generally participated in the conferences, but the implications of this process with its stress on humanitarian considerations and the increasing civil society support it was attracting was causing some discomfort amongst nuclear dependent states. “Where is this going?” was a frequently heard question in exchanges with officials of these states. As it happened, these states did not have long to wait for an answer. No sooner than the Vienna conference concluded than the Austrian chair set out a national “pledge” to fill the “legal gap” on the prohibition of nuclear weapons and called upon others to follow suit.

7. The failure of the NPT Review Conference of May 2015 to agree on an outcome document and the evident clash of views on the state of nuclear disarmament in the statements made at that meeting provided further impetus for advancing the nuclear disarmament aims of the leading non-NWS. This attitude was reinforced by the protracted impasse at the 65-nation Conference on Disarmament (CD) in Geneva, ostensibly the UN’s venue for negotiating multilateral arms control and disarmament agreements, that meant that no program of work had been adopted in this forum since 1998. By the time of the annual meeting of the UN General Assembly’s First Committee (Disarmament and International Security), Austria and over forty co-sponsors were able to introduce a resolution entitled “Humanitarian Pledge for the prohibition and elimination of nuclear weapons.” The resolution’s preamble contained an affirmation “that it is in the interest of the very survival of humanity that nuclear weapons are never used again, under any circumstances.” In the operative section the resolution called upon “all states to identify and pursue effective measures to fill the legal

gap for the prohibition and elimination of nuclear weapons.” Moreover, it appealed to “all relevant stakeholders ... to cooperate in efforts to stigmatize, prohibit and eliminate nuclear weapons in the light of their unacceptable humanitarian consequences and associated risks.”³

8. When put to a vote in the First Committee on 2 November 2015, the resolution was adopted with 128 yes, 29 no, and 18 abstentions (the subsequent vote by the General Assembly was 139-29-17). The five NWS party to the NPT all voted ‘no’ along with Israel. A ‘no’ vote was also cast by all the NATO non-NWS except Albania and Portugal which abstained. Nuclear allies Australia and South Korea voted against the resolution while Japan abstained. The other nuclear weapons possessing states outside the NPT (India, Pakistan and North Korea) abstained. The “Humanitarian Pledge” resolution generated a new division within the international community on the issue of nuclear weapons policy which has continued to the present day and foreshadowed the stance states would take to the subsequent initiation of a negotiating process under UN auspices and to the NWPT which resulted from that process in July 2017.

9. The essential dilemma posed by the “Humanitarian Pledge” resolution for the NWS and the non-NWS in alliance with them was its rejection of nuclear deterrence, a doctrine upheld by the NWS and enshrined in alliance policy. The resolution brought into sharp relief the tension inherent in advocating nuclear disarmament on the one hand and affirming nuclear deterrence on the other (with its attendant doctrinal and practical manifestations). The resolution did not allow for this tension to be fudged over as it specifically challenged the basis of the allied nuclear policies.

10. In particular, its advocacy that nuclear weapons “are never used again, under any cir-

³ “Humanitarian pledge for the prohibition and elimination of nuclear weapons” UN General Assembly Resolution A/70/48, 7 December 2015.

cumstances” directly contradicted allied nuclear policy which envisages, under certain circumstances, that nuclear weapons are used. The resolution’s call for “effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons” also hit a neuralgic point as allied policies denied that any form of “legal gap” existed with respect to nuclear weapons, and that the NPT was a sufficient legal framework. Finally, the resolution’s appeal to all stakeholders to cooperate “to stigmatize, prohibit and eliminate nuclear weapons” suggested a campaign to delegitimize nuclear arms and to depict them in the same category as chemical weapons, landmines and cluster munitions, weapons subject to comprehensive prohibition treaties. Given that for nuclear reliant allies this was an all-out assault against a weapon system still deemed essential for alliance defence, it was evident that the resolution would have to be opposed, if these same allies were not to put themselves into a contradictory position.

11. At the General Assembly, the nuclear dependent non-NWS decided on joint statements (both prior to and after the actual vote, something of a departure from normal procedure which limits states to one or the other) to voice their dissent. The statements on behalf of 27 non-NWS, delivered by Australia and Germany respectively, were an effort to explain the opposition, but in terms considered more palatable for the majority of non-NWS supporting the resolution, as well as for domestic constituencies which would be sympathetic to the resolution in the minority group of states.

12. The statements reaffirm the recognition by the concerned states of “the grave humanitarian consequences of a nuclear weapons detonation” and “our common and unshakeable commitment to the ultimate elimination of all nuclear weapons.” At the same time the statements assert that “security and humanitarian principles co-exist” and decry that the resolutions “do not reflect these realities and imperatives” and are contributing to “increasing international divisions with regard to nuclear disarmament, including by seeking to margi-

nalize and de-legitimize certain policy perspectives and positions.”⁴

13. This stance implies a dichotomy between humanitarian and security goals that many concerned with nuclear disarmament would dispute. For the supporters of the “Humanitarian Pledge” the elimination of nuclear weapons makes sense for both humanitarian and security reasons. The dissenting minority of non-NWS are obliged by the logic of their statements to affirm that nuclear weapons have security benefits, which sits uneasily with traditional support for nuclear disarmament under the NPT including the 2000 NPT Review Conference’s “unequivocal undertaking by the nuclear weapon states to accomplish the total elimination of their nuclear arsenals.” The nuclear reliant non-NWS also had to contest the stigmatization of nuclear weapons put forth in the resolution, as otherwise they would be perceived as supporters of an illegitimate weapon. This compounded the problem for non-NWS which prefer to be seen as supporters of international law, including international humanitarian law. These factors underscored the inherent ambiguity of these non-NWS’s declaratory policy in favour of nuclear weapons abolition. It began to resemble St. Augustine’s cry for God to make him chaste, but just not yet.

The NATO Factor

14. In order to appreciate the dilemma faced by the non-NWS which did not support the “Humanitarian Pledge” resolution when it was put to the vote in the fall of 2015, it is necessary to consider what NATO’s nuclear policy consisted of at the time (25 of the 27 delegations behind the joint statement on their opposition to the resolution were NATO member states).

15. NATO’s nuclear policies have evolved significantly over the years since its creation in 1949. The approach of the NATO NWS has been

⁴ “Pre-voting statement on the three Humanitarian Impact of Nuclear Weapons resolutions, delivered by Australia on behalf of 27 delegations,” UNGA First Committee, 2 November 2015, www.reachingcriticalwill.org.

instrumental in defining these policies especially on the part of the United States, although there is no monolithic allied NWS stance. France for example has always maintained its distance from the rest of the Alliance on nuclear weapon matters and has not participated in the Nuclear Planning Group forum at NATO.

16. Nuclear policies of the Alliance are most authoritatively presented in the “Strategic Concept,” a comprehensive policy document last issued in 2010, and in the communiqués released after the biennial NATO summits, of which the most recent is the 2016 Warsaw Summit statement. Although the overall trend in the nuclear policy as expressed in these documents is towards a lessened reliance on nuclear weapons, they are still depicted as an “essential” component of NATO’s deterrence stance. At the same time, NATO asserts that it is strongly committed to the NPT, pointing out that all its members are NPT states parties and that “Allies have repeatedly emphasized their strong commitment to full implementation of the Nuclear Non-Proliferation Treaty.”⁵

17. Following the lead of the United States and echoing the words of President Barack Obama’s speech in Prague in April 2009, NATO in its 2010 “Strategic Concept” pledged to help “create the conditions for a world without nuclear weapons.” Although the Alliance has failed to articulate subsequently what it considers those conditions to be, or how it intends to contribute to their creation, the impression was made that NATO recognized the need to work towards total elimination of nuclear weapons in alignment with undertakings all the allies had made in the NPT context. Ambiguity has at times featured prominently in nuclear weapons policies, and NATO in the same “Strategic Concept” that endorsed the goal of a world without nuclear weapons also seemed to caveat this by proclaiming that “NATO will remain a nuclear alliance as long as nuclear

weapons exist.”⁶ This Mobius strip of a declaration can of course be read “as long as NATO remains a nuclear alliance, nuclear weapons will exist.”

18. NATO nuclear policy therefore provided useful political cover for all allies, who, like with scripture, could cite the elements that suited them best. The advent of the humanitarian imperative movement with its express aims to delegitimize nuclear weapons and to frame them as immoral weapons of mass destruction that should never be used again, posed such a direct challenge to NATO’s core doctrine of nuclear deterrence that member states could not ignore it. The rift already evident in the fall of 2015 within the non-NWS bloc (between nuclear reliant states and the others) was only going to widen as proponents of the “Humanitarian Pledge” moved to operationalize their commitment to fill the “legal gap” by initiating negotiation of a treaty prohibiting nuclear weapons.

The Open-Ended Working Group: The Debate Is Joined

19. At the same session of the General Assembly that adopted the “Humanitarian Pledge” resolution, a further resolution entitled “Taking forward multilateral nuclear disarmament negotiations” was passed by a wide margin. This resolution established an Open-Ended Working Group (OEWG) to “substantively address concrete effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons.”⁷ Importantly, this OEWG, which would meet over three weeks in 2016, would operate under General Assembly rules of procedure that permit voting as opposed to the consensus rule that had paralyzed the Conference on Disarmament for so long. This provision for outcomes that would be voted upon

⁵ “NATO and the Non-Proliferation Treaty.” *Fact Sheet*, March 2017, https://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2017_03/20170323_170323-npt-factsheet.pdf.

⁶ Ibid – original statement in “Strategic Concept” 2010 paragraph 17.

⁷ “Taking forward multilateral nuclear disarmament negotiations” UN General Assembly resolution, A/70/33, 11 December 2015.

rather than subjected to consensus (and hence vulnerable to negation by any opposing state) was sufficient to lead the nuclear weapons states to boycott the process. Nuclear reliant states in the main opted to participate in the OEWG with a view to influencing the proceedings in a manner aligned with their preferences.

20. Over the three sessions of the OEWG the nuclear reliant allies were noticeably active in contributing to the discussions. They submitted seven working papers to the OEWG, the most important of which was a paper entitled “A progressive approach to a world free of nuclear weapons: revisiting the building blocks paradigm” sponsored by 17 non-NWS allies including Australia, Canada, Germany and Japan. This paper dropped the discredited, to many, term “step-by-step” approach to disarmament in favour of a “progressive” approach that spoke of “identifying concrete and practical ‘building blocks’ to reach that shared goal” of a world free of nuclear weapons.⁸

21. The paper argued the need to take into account the prevailing international environment, which required “as an immediate priority the promotion of practical and effective confidence-building measures.”⁹ The paper enumerates a lengthy list of such effective practical measures both in the legal and non-legal realms, while making it clear that the NPT remains the only authoritative legal agreement for nuclear matters and that any further legal arrangements for the prohibition of nuclear weapons among nuclear weapons possessing states would only be feasible as “the final building block.” As if to underscore this point, Canada and the Netherlands both submitted separate working papers essentially contesting the existence of any “legal gap” with respect to the prohibition and elimination of nuclear

weapons (a central tenet of the “Humanitarian Pledge” enterprise).¹⁰

22. The non-NWS allies were obliged to operate as advocates of the NWS throughout the OEWG given the latter’s decision to boycott the proceedings. It is not clear to what extent the principal NWS attempted to direct the actions of the allied non-NWS during the OEWG. There was considerable speculation that Australia was acting as a proxy for the United States when on the last day of the session it called for a vote on the final report of the OEWG which had up to that point had been considered as an agreed text. While accurately incorporating the various proposals presented by delegations during the OEWG, the report’s primary recommendation was for the General Assembly to convene in 2017 a conference to negotiate a legally binding instrument to prohibit nuclear weapons. The Australian manoeuvre, whatever its motivation, failed to derail the outcome as the report was adopted with 107 votes for and 22 against.¹¹ Momentum was building to translate aspiration into reality and the non-NWS allies were finding themselves fighting a futile rearguard action against the negotiation of a new treaty on the prohibition of nuclear weapons.

The NWPT and the Impact of a New Reality

23. With the conveyance of the OEWG report to the 2016 session of the General Assembly it was only a matter of time before a resolution was introduced to authorize the negotiation recommended in the report. The resolution provided for four weeks total of negotiation in

⁸ “A progressive approach to a world free of nuclear weapons: revisiting the building blocks paradigm” OEWG, A/AC.286/WP.9, 24 February 2016, <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/OEWG/2016/Documents/WP09.pdf>.

⁹ Ibid.

¹⁰ See “The existence of a ‘legal gap’” submitted by the Netherlands, OEWG, A/AC.286/WP.16 and “Reflections on the ‘Legal Gap for the elimination and prohibition of nuclear weapons.’” A/AC.286/WP.20, submitted by Canada; both dated 12 April 2016.

¹¹ For an account of the concluding day of the session see “OEWG Report,” 2:19 (19 August 2016), www.reachingcriticalwill.org. Additional commentary on Australia’s role contained in Michael Slezak, “Australia attempts to derail UN plan to ban nuclear weapons,” *The Guardian*, 21 August 2016 and Richard Lennane “Australia writes itself out of nuclear disarmament diplomacy” *The Interpreter* 23 August 2016, www.lowyinstitute.org.

March and June–July 2017 with a view to concluding “as soon as possible a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination.”¹² Significantly, the negotiations were to be open to all states and would utilize General Assembly rules of procedure (thus avoiding the strictures of consensus decision making).

24. The move to operationalize the negotiation elicited a hardening of the positions of the nuclear reliant states. The resolution was adopted with 113 in favour, 35 opposed and 13 abstentions: a marked increase in opposing votes from the 12 voting against the resolution establishing the 2016 OEWG. The boycott tactics practised by the nuclear-armed states were now emulated by their nuclear dependents which, with the singular exception of the Netherlands, whose government had been mandated by its Parliament to attend, refused to participate in the negotiation sessions. Just in case there were any doubts as to where official Dutch sentiments lay, the Netherlands was the only country calling for a vote and then voting against the adoption of the NWPT, providing further evidence for ban supporters of the wisdom of not adopting a consensus-based decision making procedure for the negotiations.

25. Given the fact that these negotiations were part of a duly authorized UN process, the decision of the umbrella states not to attend tarnished the public image of these non-NWS long considered as epitomes of good multilateralism. This was not merely a case of rejecting the outcome of a multilateral process deemed incompatible with their national interests (which had been done in the past), but a deliberate effort at delegitimizing the very negotiation and its expected product.¹³ This overt shunning of the negotiation came with a cost: the lack of any opportunity to influence the negotiations in a

direction more aligned with the interests of the non-NWS supporters of the “progressive approach.”

26. In the absence of NWS and nuclear reliant states, it was to be expected that the negotiators present would work to elaborate as comprehensive a prohibition on nuclear weapons as possible. These prohibitions included the commitments never under any circumstances to “use or threaten to use nuclear weapons” or “allow any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices in its territory.”¹⁴ Such prohibitions were direct rejections of the nuclear deterrence doctrine with its threat of use of nuclear weapons, as well as of existing nuclear sharing arrangements under which at least five non-NWS were providing bases for US nuclear weapons. At a minimum, for nuclear reliant allies to sign on to the NWPT would entail disavowing such policies and practices.

27. The NATO NWS were quick off the mark with their rejection of the NWPT. On the very day the treaty was adopted by 122 states at the UN headquarters in New York, the US, UK and France issued a joint statement declaring that “We do not intend to sign, ratify or ever become party to it.” The statement also confirmed that in the view of these NWS “Accession to the ban treaty is incompatible with the policy of nuclear deterrence, which has been essential to keeping the peace in Europe and North Asia for over 70 years.”¹⁵ NATO officially dismissed the NWPT in a press release as disregarding “the realities of the increasingly challenging international security environment” and referred to the communiqué from the 2016 NATO Summit and its recognition “that progress on arms control and disarmament must take into account the prevailing international security environment. We regret that the conditions for

¹² “Taking forward multilateral nuclear disarmament negotiations” UNGA resolution, A/71/258, 23 December 2016.

¹³ It has been argued that this boycott constituted non-compliance with Article VI obligations under the NPT, see Ramesh Thakur “The Nuclear Ban Treaty: Recasting a Normative Framework for Disarmament” *The Washington Quarterly*, 40:4 (2017), p. 80.

¹⁴ See Article 1 Prohibitions, Treaty on the Prohibition of Nuclear Weapons, UNGA, 7 July 2017.

¹⁵ “Joint Press Statement from the Permanent Representatives to the UN of the United States, United Kingdom and France Following the Adoption of a Treaty Banning Nuclear Weapons,” 7 July 2017, www.usun.state.gov.

achieving disarmament are not favourable today.”¹⁶

28. Of course, this claim does beg the question as to whether the security environment was any better during the Cold War when NATO member states were involved in negotiating a series of arms control and disarmament agreements. Is it really a worsening of the international security environment that is preventing progress – or rather a lack of political will and diplomatic energy to seek agreed arrangements to reduce nuclear risks and advance disarmament objectives?

29. Variations of this theme of hand-wringing and lamentation in the face of an apparently nasty international security context characterized the statements by nuclear reliant non-NWS at the UN General Assembly’s First Committee in October 2017, the first opportunity for those who boycotted the NWPT negotiation to voice their views in a UN security forum. Typical in this regard was the statement delivered by the Australian Ambassador on behalf of 29 states (all the NATO member non-NWS plus Australia, Japan and South Korea) during the thematic debate on nuclear weapons. Under the banner of the “Progressive Approach” the statement declared that “effective, sustainable disarmament must take into account the international security environment.” Such disarmament must also be “inclusive, and engage NWS” as well as promote “practical and effective confidence-building measures.”¹⁷

30. No new legally binding measures were cited or recommended, but the statement saw practical progress represented by the convening of an expert preparatory group on a fissile material production ban and the establishment of another expert group on nuclear disarmament verification. Both steps are of marginal

utility compared with the initiation of actual negotiation or action on nuclear arms reduction. The bar of ambition has been dramatically lowered by these non-NWS. Their statement, by ignoring the fact of the NWPT, seems to reflect a blinkered hope that if the nuclear reliant non-NWS only pretend it doesn’t exist, this troublesome treaty will just go away.

A House Divided: The NWPT Elephant in the NPT Salon

31. The adoption of the NWPT by 122 states has created a schism within the NPT and its 191 states parties. Suddenly, a super majority of non-NWS parties have recovered their agency in rejecting a global nuclear order in which the tempo and scale of nuclear disarmament was solely determined by the NWS. In contrast to the sclerotic “step by step” approach a ‘fast track’ to fulfilment of Article VI obligations has been embraced by a new “moral majority” within the NPT ranks. While all concerned may continue to pay lip service to the NPT’s importance, the rift amongst its members over the right approach to achieve nuclear disarmament will inevitably have a corrosive effect on the NPT’s authority. It may provoke defections *de facto* or *de jure* from the NPT as some non-NWS switch to a treaty embodying higher disarmament standards.¹⁸

32. Although the NWS and their dependents may continue to ignore the NWPT’s presence in the series of NPT meetings leading up to its Review Conference in 2020, this may well prove to be a counter-productive tactic, likely only to exacerbate the alienation of NWPT supporters. Equally unhelpful would be the continued accusation against the “moral majority” by the “dissident minority” of having created disunity in the NPT family.

33. A more constructive approach for the NWS to adopt in the NPT context would be to demonstrate fulfilment of the many agreed, if still

¹⁶ “North Atlantic Council Statement on the Treaty on the Prohibition of Nuclear Weapons,” 20 September 2017, www.nato.int.

¹⁷ “Statement on the Progressive Approach UNGA 72” delivered by H.E. John Quinn, Australian Ambassador for Disarmament, UN First Committee, 11 October 2017, www.reachingcriticalwill.org.

¹⁸ For a fuller discussion of this theme see the author’s “The Nuclear Nonproliferation Treaty: *Fin de Régime?*” *Arms Control Today* 47:3 (April 2017).

unimplemented, commitments on nuclear disarmament and risk reduction generated by successive Review Conferences. Among the most salient of such measures would be:

- a. unilateral reduction of existing arsenals similar to the presidential initiatives of the early 1990s;
- b. elimination of escalatory aspects of nuclear force modernization plans and the exercise of restraint in any essential force maintenance;
- c. further negotiated reductions in nuclear warheads either bilaterally or through the launching of a multilateral process by the NWS;
- d. major steps in “de-alerting” strategic nuclear weapon delivery systems;
- e. a significant diminishment in the role of nuclear weapons in security policy and doctrine (for example adoption of a “sole purpose” pledge on nuclear deterrence);
- f. ratification by “hold-out” states of the Comprehensive Test Ban Treaty;
- g. initiation of negotiations on a treaty banning the production of fissile material for nuclear weapons; and
- h. operationalization of discussions of nuclear disarmament verification to a degree commensurate with the resources devoted to nuclear weapons development and maintenance.

Bridging Options

34. In addition to lobbying NWS to realize some tangible nuclear disarmament goals as per the listing in the previous paragraph, the nuclear dependent states could also play a major role in bridging the gap within the non-NWS opened up by the NWPT. A key diplomatic vehicle potentially towards this end is the Nonproliferation and Disarmament Initiative (NPDI) grouping of states. This grouping of twelve states has the unique advantage compared with other associations within the NPT membership of including both nuclear dependent non-NWS (for example Australia, Canada, Japan) and pro-NWPT states (Brazil, Mexico, Philippines and Nigeria). The NPDI has already

been active within the NPT context in promoting transparency initiatives and other steps to strengthen the effectiveness of the regime and encourage realization of its agreed objectives (for example promotion of the Action Plan adopted at the NPT's 2010 Review Conference). If the NPDI could intensify its efforts to identify areas of common ground between the two non-NWS camps it could conceivably play a significant role in rebuilding a degree of solidarity and common purpose within the NPT community. Such an effort would require an investment of political-diplomatic energy on the part of the NPDI states.

35. To succeed, it would also have to be more than a mere attempt to paper over the cracks and project a frail solidarity. The root causes of the rift among NPT members lies in the failure to make sufficient progress on nuclear disarmament and all the goodwill and well-intentioned initiatives of the non-NWS will be in vain unless that situation is fundamentally altered.

Conclusion

36. The NWPT has introduced a potent new dynamic into a global nuclear governance regime that has stagnated for years. The NWPT is no sudden “bolt out of the blue” but evolved over several years of intensifying non-NWS frustration with a NWS-dominated NPT-based regime which was unresponsive to their concerns. If the NPT's relevance is to be sustained it will require the NWS and their nuclear reliant allies to develop a positive agenda regarding the NWPT and demonstrate that they are able to actually deliver on neglected Article VI commitments.

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APLN and the Toda Peace Institute are publishing a series of Policy Briefs together in a partnership on a project entitled "Bridging the Gap: Harmonizing the NPT and Ban Treaties." The objective of the project is to link global efforts to protect and strengthen international mechanisms for advancing nuclear non-proliferation and disarmament by harnessing the NPT and the Ban Treaty. A key will be to identify ways to improve cooperation between the 122 countries that voted to adopt the Ban Treaty on the one hand and, on the other, the nuclear-armed states and allies under the nuclear umbrella in the North Atlantic and the Asia Pacific.

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