Momentum Builds for Nuclear Ban Treaty

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A growing number of non-nuclear-weapon states are expressing support for the immediate commencement of negotiations on a legally binding agreement to prohibit nuclear weapons, despite strong opposition from those states that possess nuclear weapons and many U.S. allies.

The contentious debate over how best to advance nuclear disarmament occurred at a meeting last month of an open-ended working group on disarmament taking place in Geneva this year.

It remains to be seen how the final report of the working group will reflect the different views expressed and whether ban-treaty supporters will seek a mandate at the UN General Assembly meeting in New York this fall to start formal talks on a treaty.

In a working paper considered by the group during the first two weeks of May, nine states belonging to nuclear-weapon-free zones, including Argentina, Brazil, Indonesia, and Mexico, called for convening “a Conference in 2017 open to all states, international organizations, and civil society to negotiate a legally-binding instrument to prohibit nuclear weapons.”

The paper detailed elements that negotiators of a ban treaty might include in this instrument, such as a prohibition on possession, use and threat of use, acquisition, and “assisting, encouraging, or inducing, directly or indirectly, the engagement in any activity prohibited by the legally-binding instrument.”

In addition, the paper argued that a ban treaty “would have a political as well as legal impact on the disarmament debate” and “would not need universal adherence to be negotiated nor to enter into force.”

Meanwhile, a May 4 working paper submitted by Austria and co-sponsored by all 126 other endorsers of the so-called Humanitarian Pledge that emerged from a December 2014 conference in Vienna on the impact of nuclear weapons use urged states “to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons,” including “an additional legal instrument or instruments.” (See ACT, January/February 2015.)

The Austrian paper noted that “[a]chieving and maintaining a world without nuclear weapons will require a multitude of legal and non-legal measures” and that “the various approaches cannot be considered as mutually exclusive but as complementary.”

Austrian Foreign Minister Sebastian Kurz speaks on December 8, 2014, in Vienna at the third international conference on the humanitarian impact of nuclear weapons use. The following day,
Austria issued the Humanitarian Pledge at the conference. Many supporters of the Humanitarian Pledge expressed their support for beginning negotiations on a ban treaty at the May meeting of the working group, but the Austrian paper did not explicitly endorse such a treaty as the most appropriate next step toward advancing nuclear disarmament, nor did it recommend specific elements a treaty should include.

One member of a European delegation participating in the group told Arms Control Today in a May 11 interview that although a majority of UN member states support starting negotiations on a ban treaty, some pledge signatories within the Non-Aligned Movement have not yet decided whether to support a ban as a near-term step.

During last year’s meeting of the UN General Assembly First Committee, UN member states voted to approve a resolution sponsored by Mexico creating the working group. (See ACT, December 2015.) It is open-ended, which means that all UN members can participate.

The creation of the open-ended working group grew out of the frustration of many non-nuclear-weapon states at the slow pace of nuclear disarmament. This has prompted these states to look for new and alternative approaches and venues to spur progress.

Under the resolution, the main mandate of the group is to “substantively address concrete effective legal measures, legal provisions and norms” necessary to “attain and maintain a world without nuclear weapons.”

The working group held its first meeting Feb. 22-26. Another set of meetings was held in Geneva during May 2-4 and 9-13.

**United States Skips Meetings**

Approximately 100 states sent delegations to the May session, but the nine states that have nuclear weapons declined to participate.

Blake Narendra, a U.S. State Department spokesperson, told Arms Control Today in February that the United States decided not to participate because the agenda and rules for the working group “will not result in constructive dialogue on nuclear weapons or conditions under which nuclear disarmament can best be achieved.” (See ACT, March 2016.)

Washington also expressed concern that the working group would lay the groundwork for negotiations on a ban treaty, which it strongly opposes.

Some diplomats questioned the U.S. decision not to participate in the working group. A second European diplomat told Arms Control Today that had a U.S. delegation attended the meetings in Geneva, it could have slowed or even stopped the growing momentum in support of ban-treaty negotiation.

**Umbrella States Oppose Ban**
Although none of the nuclear-armed states are attending the working group meetings, many countries in Europe and Asia that rely on U.S. nuclear weapons for their protection are participating.

These states, often referred to as “umbrella states,” repeatedly expressed opposition to commencing negotiations on a ban treaty.

In an April 27 working paper, Canada disputed the existence of a “legal gap” that must be filled by negotiating effective legal measures such as a ban treaty. According to the paper, the nuclear Nonproliferation Treaty (NPT) “provides a sufficient legal basis for achieving a world free of nuclear weapons.”

Canada also voiced concern that the premature negotiation of a ban treaty that does not include the participation of states that possess nuclear weapons “would intensify existing rifts among states on nuclear issues” and “have the unintended consequences of imperiling the stability achieved under” the NPT.

Most umbrella states instead backed a progressive “building blocks” approach to advancing nuclear disarmament. As described in a Feb. 24 working paper, the approach calls for the pursuit of “parallel and simultaneous” non-legal and legal measures, such as reducing the risk of accidental or unauthorized use of nuclear weapons, reducing numbers of nuclear weapons, bringing into force the Comprehensive Test Ban Treaty, and commencing negotiations on a fissile material cutoff treaty.

According to the paper, only after these steps had been achieved would it be feasible to pursue the “final building block” of an “internationally verifiable nuclear disarmament framework such as...a multilateral nuclear weapons convention.”

Some countries suggested additional ideas to advance disarmament with the aim of bridging gaps between supporters of a ban treaty and the building blocks approaches.

For example, Annika Thunborg, director of the department of disarmament, nonproliferation, and export control in the Swedish Ministry of Foreign Affairs, proposed in a May 11 statement that states pursue an instrument prohibiting the use or threat of use of nuclear weapons, which she argued would reduce nuclear weapons risks and “could gain support among both countries with nuclear weapons and countries in nuclear alliances.”

Sweden also submitted a working paper co-sponsored by Switzerland proposing that states “initiate or engage in a process to reduce risks associated with nuclear armed cruise missiles,” including “actions to limit, prevent deployment of and lead to a ban on all nuclear armed cruise missiles.”

**Next Steps Uncertain**
At the May 13 close of the most recent working group meetings, group chair Thani Thongphakdi, the permanent representative of Thailand to the United Nations in Geneva, noted that the debate “was not an easy one and if agreement could be observed on several important topics, there were also persisting differences in views and approaches on others.”

Thongphakdi said that he would prepare a “factual report reflecting as much as possible the discussions held and proposals made” and circulate a first draft to states no later than early August.

The working group is scheduled to meet for its final session on Aug. 5, 16-17, and 19 to consider and adopt a final report.

Some states warned against seeking “a lowest common denominator outcome” at the expense of accurately reflecting what transpired during working group deliberations. In a May 13 statement, Dell Higgie, New Zealand’s ambassador for disarmament, said her country would not support a report that “simply repeats steps we have already agreed to elsewhere.”

She stressed “the importance of” the report emphasizing that the “clear majority” of states support “pursuing a negotiating process right now.”

Whether the UN First Committee might take up a resolution this fall to authorize the beginning of a negotiating process of a ban treaty is unclear.

Thomas Hajnoczi, the permanent representative of Austria to the United Nations Office at Geneva, said that such a resolution would be a “logical” next step, but said his country, which supports starting negotiations on a ban, had yet to begin detailed consultations with other countries on the matter.

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