

## Submission for the International Treaty Examination of the Treaty on the Prohibition of Nuclear Weapons

8 June 2018

### • Overview

1. iCAN Aotearoa New Zealand welcomes the opportunity to provide a submission for the Foreign Affairs, Defence and Trade Select Committee's international treaty examination of the 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW)<sup>i</sup>.
2. It is our view that ratification of the TPNW can proceed without delay because the Treaty's provisions are already covered by existing legislation and policy. Its provisions are ones that all New Zealanders can support, and ratification is entirely in keeping with New Zealand's long standing cross-party opposition to nuclear weapons testing and efforts to achieve nuclear disarmament.
3. Ratification of the TPNW is fully consistent with New Zealand's existing international obligations; and will enhance New Zealand's international reputation as a state committed to a world free of nuclear weapons, and to the advancement of humanitarian disarmament more generally. It will also encourage other states to join the Treaty, and give hope to the many non-governmental organisations (NGOs), communities and individuals overseas who are working to eliminate nuclear weapons and promoting the TPNW with their respective governments as a positive step towards achieving that goal.
4. Furthermore, early ratification will ensure that New Zealand is a state party to the TPNW when it enters into force, and will thus be in a strong position to influence its future development and direction at the first and subsequent Meetings of State Parties.
5. **Recommendation:** We recommend the international treaty examination and report back to parliament be concluded urgently so that New Zealand's instrument of ratification can be lodged as soon as possible - ideally before 7 July, the first anniversary of the TPNW's adoption.
6. Thank you for your consideration of our submission, we are happy to speak with the Committee and provide any further information that may be required.

### • Introduction

7. iCAN Aotearoa New Zealand is the New Zealand national campaign of the International Campaign to Abolish Nuclear Weapons (iCAN), the 2017 Nobel Peace Prize laureate.

8. Our submission comprises three main sections under the following headings:

- A) Ratification and New Zealand's domestic legislation and policy;
- B) Ratification and New Zealand's international obligations; and
- C) Other reasons for New Zealand to ratify the TPNW.

9. A section with information about iCAN Aotearoa New Zealand is included at the end.

10. When the international treaty examination was announced last month, we consulted with 300 NGO representatives and individuals nationwide who support iCAN Aotearoa New Zealand about the key points for this submission, and published a guide for submitters which included background information on the TPNW and a summary of those points. Our thanks to all who contributed points for inclusion.

### **A) Ratification and New Zealand's domestic legislation and policy**

11. Ratification of the TPNW can proceed without delay because there is no need for specific enabling legislation, or any legislative amendment, as all of its provisions are already covered by existing domestic legislation and policy as outlined in this section.

12. **Key prohibitions (Article 1):** The key prohibitions are mainly included in the New Zealand Nuclear Free Zone, Disarmament and Arms Control Act 1987. The jurisdictional gap in Section 5 of the Act is covered by other legislation, including the Terrorism Suppression Act 2002, the Immigration Act 2009, and the Crimes Act 1961.

13. **Prohibition on nuclear weapons testing (Article 1):** The prohibition on nuclear weapons testing is covered by the New Zealand Nuclear Free Zone, Disarmament and Arms Control Act and the Nuclear-Test-Ban Act 1999.

14. **Safeguards (Article 3):** Once the TPNW enters into force, state parties will be required to have safeguards in place - New Zealand is already fully compliant with International Atomic Energy Agency safeguards as it has both a Comprehensive Safeguards Agreement as well as an Additional Protocol in place.

15. **National implementation (Article 5):** The requirement that each state party shall adopt the necessary measures to implement its obligations under the Treaty, is already met as outlined in this section.

16. **Victim assistance and environmental remediation (Article 6.1):** The requirement for state parties to adequately care for individuals under its jurisdiction who are affected by the use or testing of nuclear weapons is covered by the Veterans' Support Regulations 2014, as well as the support offered to nuclear test veterans and their families by Veterans' Affairs. Any civilian who is affected by any future use or testing of nuclear weapons overseas would be covered by public health care and social welfare provisions, and may be covered by ACC in some circumstances. New Zealand does not have areas under its jurisdiction or control requiring environmental remediation.

17. **International cooperation and assistance (Article 7):** The requirement that state parties in a position to do so shall provide assistance to state parties affected by the use or testing of nuclear weapons, and to the victims of use or testing of nuclear weapons is a matter of policy rather than legislation - and one that we anticipate New Zealand will fulfil through one or more of the avenues described in Article 7.5.

18. **Universality (Article 12):** The requirement that state parties must encourage other states to join it, with a view to achieving universality, is a matter of policy rather than legislation - New Zealand's support for the TPNW and for progressing nuclear disarmament more generally indicates that this requirement will be met.

## **B) Ratification and New Zealand's international obligations**

19. Ratification of the TPNW is fully consistent with New Zealand's existing international obligations - in particular, fulfilling the obligation on all state parties to the 1968 Treaty on the Non-Proliferation of Nuclear Weapons, which New Zealand ratified in 1969: *"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"* (Article V1).

20. The TPNW complements the 1985 South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga), which New Zealand ratified in 1986, and the 1996 Comprehensive Nuclear Test Ban Treaty, which New Zealand ratified in March 1999.

## **C) Other reasons for New Zealand to ratify the TPNW**

21. New Zealand played a leading role in building support for, and negotiating, the TPNW. It voted in favour of the 2016 UN General Assembly resolution (A/RES/71/258, 23 December 2016) mandating the convening of the conference which negotiated the TPNW; and actively contributed to, and was a Vice President for, the two negotiating sessions, held in New York from 27 to 31 March and from 15 June to 7 July 2017. New Zealand was among the first states to sign the TPNW when it opened for signature on 20 September 2017 - ratification is therefore the next logical and essential step.

22. Ratification of the TPNW will ensure that New Zealand is a state party to all three of the instruments banning weapons of mass destruction - the TPNW, the 1972 Biological Weapons Convention, which was ratified in December 1972 (its provisions are included in the New Zealand Nuclear Free Zone, Disarmament and Arms Control Act), and the 1992 Chemical Weapons Convention, which was ratified in July 1996. It is also in keeping with New Zealand's ratification of treaties prohibiting other weapons with indiscriminate effects, such as the 1980 Convention on Certain Conventional Weapons and its Additional Protocols, the 1997 Mine Ban Treaty, and the 2008 Convention on Cluster Munitions; and other humanitarian disarmament treaties, such as the 2013 Arms Trade Treaty.

23. Ratification of the TPNW is also in keeping with New Zealand's long standing cross-party opposition to nuclear weapons testing, and support for nuclear disarmament - from New

Zealand's support for the first resolution of the first UN General Assembly, on the elimination of nuclear weapons from national armaments, its opposition to nuclear weapons and nuclear tests throughout the 1960s and 1970s, the 1984 prohibition on nuclear-powered or nuclear-armed ships using New Zealand ports or entering New Zealand waters, the 1987 New Zealand Nuclear-Free Zone Disarmament and Arms Control Act, through to New Zealand's active support for the negotiation and adoption of the TPNW and signing it at the earliest opportunity.

24. We draw your attention to a statement in the National Interest Analysis for this international treaty examination that provides a succinct summary of two other important reasons for New Zealand to ratify the TPNW - the role of non-nuclear states, and the risks around proliferation:

*“New Zealand’s ratification of the Treaty would make a valuable contribution to nuclear disarmament and non-proliferation and would reiterate our long-held belief that non-nuclear weapon states have a legitimate role to play in the pursuit of a world without nuclear weapons. It would also reflect New Zealand’s view that the status quo on nuclear disarmament is unstable and unsustainable and risks inviting the proliferation of nuclear weapons and unravelling the 1968 Treaty on the Non-Proliferation of Nuclear Weapons.”<sup>ii</sup>*

25. Early ratification will encourage other states to join the Treaty, and give hope to the many NGOs, communities and individuals overseas who are working to eliminate nuclear weapons and promoting the TPNW with their respective governments as a positive step towards achieving that goal.

26. There is a high level of international interest in New Zealand's ratification of the TPNW - our post on Peace Movement Aotearoa's Facebook page with the Minister for Disarmament and Arms Control's May 2018 announcement that New Zealand will ratify<sup>iii</sup> was shared by more international networks and overseas groups than any other post since the Facebook page was established, and had a page reach of more than 29,900.

27. Furthermore, early ratification will ensure that New Zealand is a state party to the TPNW when it enters into force, and will thus be in a strong position to influence its future development and direction at the first and subsequent Meetings of State Parties - the first will be convened within one year of the Treaty entering into force (90 days after the 50th ratification).

28. Momentum towards entry into force is growing - the TPNW already has more state parties than the 1968 Treaty on the Non-Proliferation of Nuclear Weapons, 1972 Biological Weapons Convention, 1992 Chemical Weapons Convention and 1996 Comprehensive Nuclear Test Ban Treaty had at the same time interval after opening for signature. The TPNW currently has 10 state parties, Vanuatu's parliament voted for ratification earlier this week, and other states are working through domestic procedures towards ratification.

29. **Recommendation:** In the light of the above points, and noting today's deadline for submissions is an auspicious date, the 31st anniversary of the commencement of the New Zealand Nuclear Free Zone, Disarmament and Arms Control Act, we recommend the

international treaty examination and report back to parliament be concluded urgently so that New Zealand's instrument of ratification can be lodged as soon as possible - ideally before another auspicious date, the first anniversary of the TPNW's adoption on 7 July 2018.

30. Thank you for your consideration of our submission, we are happy to speak with the Committee and provide any further information that may be required.

Edwina Hughes,  
Coordinator, Peace Movement Aotearoa / iCAN Aotearoa New Zealand

### • About iCAN Aotearoa New Zealand

31. iCAN Aotearoa New Zealand was established in 2011 following nationwide consultation with national and local peace, disarmament and related NGOs.<sup>iv</sup> It is coordinated by Peace Movement Aotearoa, and currently has eighteen national and local supporting groups.<sup>v</sup>

32. iCAN Aotearoa New Zealand's specific focus has been on encouraging New Zealand to take a leading role in negotiating an international instrument to prohibit nuclear weapons. In order to progress that goal and to stimulate cross-party discussion about the urgent need for a nuclear ban treaty, we submitted a petition to parliament in 2011 that called on the House of Representatives to:

*“urge the government to actively engage with like-minded governments committed to abolishing nuclear weapons to launch, without delay, an initiative to start the process of negotiating a nuclear weapons convention – a treaty to prohibit the development, production, testing, deployment, stockpiling, transfer, threat of use, and use of nuclear weapons.”<sup>vi</sup>*

33. Our petition was unanimously supported by the Foreign Affairs, Defence and Trade Select Committee in its 2012 Report to the House.<sup>vii</sup>

34. Since then, our work has included: widespread dissemination of New Zealand's statements on nuclear weapons at a range of disarmament forums (all of the statements are available on the iCAN Aotearoa New Zealand site for easy public access); organising frequent public meetings and NGO briefings with the Ambassador for Disarmament, Dell Higgie, and other speakers; regularly updating the iCAN Aotearoa New Zealand national network, international iCAN, the other iCAN national campaigns and partners, and overseas disarmament networks about New Zealand's constructive engagement in the humanitarian disarmament initiative to ban nuclear weapons, including the Open-Ended Working Group Taking Forward Multilateral Nuclear Disarmament Negotiations, and the UN Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons, Leading Towards their Total Elimination; public lectures and briefings, and media work. iCAN Aotearoa New Zealand's media release 'Nuclear ban treaty adopted: NZ plays a leading role'<sup>viii</sup> was widely reported by national media outlets.

35. Since July 2017, iCAN Aotearoa New Zealand has been focused on New Zealand's early signature and ratification of the TPNW, and we have provided regular updates to our national

networks, international iCAN and overseas disarmament networks on progress towards these goals. As mentioned above, in May 2018 we published a guide for submitters to this international treaty examination which included background information on the TPNW and a summary of the key points in this submission.

## • References

<sup>i</sup> Treaty on the Prohibition of Nuclear Weapons, United Nations General Assembly, 7 July 2017

<sup>ii</sup> National Interest Analysis- Nuclear Weapon Prohibition Treaty, 16 May 2018, para 3

<sup>iii</sup> 'New Zealand to join new nuclear disarmament treaty', Rt Hon Winston Peters, 14 May 2018

<sup>iv</sup> See, for example, 'Nuclear-free anniversary and new national campaign for the abolition of nuclear weapons', 11 June 2011, <http://www.converge.org.nz/pma/icanzpre.htm>

<sup>v</sup> Anglican Pacifist Fellowship, Aotearoa Lawyers for Peace, Disarmament and Security Centre, Engineers for Social Responsibility, Greenpeace New Zealand, Nelson Peace Group, Pacific Institute of Resource Management, Pax Christi Aotearoa New Zealand, Peace Movement Aotearoa, Quaker Peace and Service Aotearoa New Zealand, St Andrew's on The Terrace, The Peace Foundation, The Peace Place, United Nations Association of New Zealand, Visual Artists Against Nuclear Arms, Waiwhetu Lower Hutt Peace Group, Women's International League for Peace and Freedom Aotearoa, and Yearly Meeting of Aotearoa New Zealand Te Taahi Tuuhauwiri / Religious Society of Friends (Quakers)

<sup>vi</sup> Petition No. 2011/1, International Campaign to Abolish Nuclear Weapons Aotearoa New Zealand

<sup>vii</sup> Petition 2011/1: Report of the Foreign Affairs, Defence and Trade Committee, 3 August 2012

<sup>viii</sup> 'Nuclear ban treaty adopted: NZ plays a leading role', iCAN Aotearoa New Zealand, 8 July 2017