



UNGA72: FIRST COMMITTEE

**Nuclear weapons
Statement by New Zealand**

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Most, quite possibly all, statements delivered during the General Debate here in the First Committee have referenced the new Treaty on the Prohibition of Nuclear Weapons. This is hardly surprising given that, as the High Representative for Disarmament Affairs observed on the Committee's opening day, this Treaty "was an historic accomplishment".

Its historic nature has indeed been recognised in last week's decision to award the Nobel Peace Prize to the International Campaign to Abolish Nuclear Weapons (ICAN) – the civil society movement instrumental in bringing about the Treaty - and New Zealand takes this opportunity to warmly congratulate ICAN.

Like any new treaty, the Treaty on the Prohibition of Nuclear Weapons has its critics. It has been suggested, for instance, that it has created divisions within the international community regarding the manner and pace at which nuclear disarmament should occur. Such an assertion, Mr Chair, would seem to overlook the long-standing dissatisfaction which has been evident on the part of so many members of the international community regarding progress on nuclear disarmament. The Treaty may well be a *symptom* of division within the UN

membership - but it cannot credibly be said to be the cause of that divide.

Some criticise the Treaty for not being a concrete step linked to the actual reduction of nuclear weapons. Of course, for this to have been possible, nuclear weapon possessors would need to have accepted their invitation to take part in its negotiation. As things stand, I think we can be very confident that all the Treaty's proponents remain strongly supportive of continued reductions in warhead numbers and would very much welcome these. Certainly, there is nothing in the Treaty that stands in the way of continued reductions or puts any impediment in their pathway.

For good and for ill, no Treaty exists in a vacuum. Had the Prohibition Treaty been designed - *in the abstract* - as a stand-alone measure, instead of one focused on reinforcing the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), a number of its provisions might not have mirrored so closely the text of the NPT. Criticism directed, for example, at the new Treaty's failure to permit reservations and at its inclusion of a withdrawal clause appears to ignore the fact that these essentially follow the approach adopted by the NPT.

Equally, the treatment of safeguards in the new Treaty is strongly influenced by the relevant provision in the NPT. As High Representative Nakamitsu stated on the occasion of its adoption, the Prohibition Treaty has been designed to ensure that no State can evade the basic safeguards underpinning the NPT. The new Treaty parallels the NPT's legal obligation to have a Comprehensive Safeguards Agreement (CSA) and establishes this as a *minimum* baseline. It goes further than the NPT by requiring - *as a legal obligation* under the terms of

the Prohibition Treaty itself – those of its States Parties who have an Additional Protocol to retain this in place as *their* minimum baseline. The allegation that the new Treaty does not strengthen the NPT has overlooked the fact that successive Review Conferences have not been able to require NPT States Parties to go beyond the CSA as the safeguards baseline.

As one would expect, the text of the new Treaty adheres to the standard confines of international law. It explicitly directs its prohibitions and obligations only to States Parties (in the same manner as all other disarmament and arms control treaties do). There has been particular questioning regarding the language of Article 18 and its description of the relationship between the Prohibition Treaty and other agreements. I have even heard it suggested that the language of Article 18 might enable Parties to the Prohibition Treaty to choose to forgo their obligations under other treaties, including the NPT. Such a suggestion, Mr Chair, overlooks the existing terms of international law (notably the binding nature of treaties - *pacta sunt servanda* - and other aspects of the Vienna Convention on the Law of Treaties including the well-established regime of Article 30 governing successive treaties dealing with the same subject matter). It also overlooks the fact that, as a practical matter, the obligations undertaken by States Parties to the Prohibition Treaty are to similar effect – and *reinforce* – the obligations set out in the NPT.

I have heard the Prohibition Treaty criticised because it enables States actually in possession of nuclear weapons to take up the invitation to join it (pursuant to the second of the two procedures enunciated in Article 4 or perhaps also on the basis of an Additional Protocol under Article 8) without having already relinquished their weapons. It is true, Mr Chair, that it is

indeed possible for a nuclear weapon possessor to become party to the new Treaty. Had this *not* been the case, of course, the Treaty could well have been the subject of an even stronger critique to the effect that it was exclusionary in nature and that, by failing to articulate any viable pathway toward a nuclear weapon-free world, it lacked real intent to encourage nuclear disarmament. Fortunately, the Treaty has avoided these pitfalls and has opened its door to *all* States - including to those who might join, *initially*, as possessors of nuclear weapons. However, any such adherent to the Treaty must immediately remove their weapons from operational status and proceed to destroy them irreversibly pursuant to a timeframe and a verified plan established with other States Parties.

The Treaty has wisely provided for this process only in broad terms. In acknowledgment of the fact that any such destruction plan will, necessarily, include complex measures establishing verification, irreversibility and safeguards - and that in all probability it will be both extraordinarily detailed and country-specific - the fine print of the plan has been left to be worked out only when it is needed and in the context applicable to the particular State, or States, at the particular time. Equally, flexibility is retained regarding the particular international institution or institutions which may prove best placed to facilitate adoption and verification of the requisite plan in the light of circumstances then prevailing.

The claim made that the Prohibition Treaty might somehow complicate the entry-into-force of the Comprehensive Nuclear Test-Ban Treaty does seem especially far-fetched. For some time now, it has been quite a challenge to retain optimism about the prospects for the CTBT's entry-into force (given the serious and long-standing obstacles which stand in the way of

this). These obstacles, however, flow from the CTBT text itself and from domestic processes for its ratification – something the Prohibition Treaty has no bearing on.

New Zealand has chosen to address today some of the less positive reactions to the Prohibition Treaty in an effort to ensure that misperceptions do not stand in the way of a proper appraisal of it – and because we have heard it said that the onus is upon the signatories of the Treaty to answer its critics and to prove that the Treaty will not undermine the NPT.

New Zealand remains proud to have signed the Treaty – and proud to remain a consistent and unwavering supporter of the NPT. The onus that all NPT States Parties retain - whether as signatories of the Prohibition Treaty or not - is to move forward on the goal of a nuclear weapon-free world. We look forward to continuing to work with all colleagues to that end.

NZ disarmament statements online
www.converge.org.nz/pma/nzdist.htm