

The Nuclear Weapons Ban Treaty. Towards a Comprehensive Prohibition of Nuclear Weapons

Converging visions for the ban

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Wednesday's [discussion](#) on core prohibitions and positive obligations for the nuclear weapon ban treaty was fascinating, and exciting. After working to ban the bomb for so many years, it is thrilling to watch the coalescence of states' views on the development of a clear and comprehensive prohibition of nuclear weapons.

On some provisions, there are divergences of opinion. The question of whether the UN Charter incorporates threat of use or whether it should be included as an explicit prohibition in the treaty is one. The inclusion of testing and transit/transshipment is another. The extent of verification, and how that relates to future disarmament processes, is also a matter of some debate.

However, governments participating in these negotiations are very clearly articulating a treaty that categorically prohibits nuclear weapons.

There has been near-universal agreement on the prohibition of stockpiling, use, deployment, acquisition, development, and production of nuclear weapons, as well as assistance, encouragement, and inducement of prohibited acts. There was overwhelming support to prohibit the transfer of nuclear weapons, which is important for preventing "nuclear sharing" arrangements.

There was also very broad support for including an explicit prohibition on financing of nuclear weapon-related activities, though some states raised questions about how this would work. Several states suggested they would view a prohibition on assistance as having "implications for the regulation of the investment of our public monies," as [Ms. Helena Nolan of Ireland](#) put it. Others asked for clarification on how a prohibition on financing would work.

How to deal with stockpiling varies. All states seem to agree that the possession of nuclear weapons must not be allowed under this treaty, but the question persists of whether the treaty should deal with setting out provisions for the elimination of stockpiles or whether it should leave that for later negotiations with nuclear-armed states. It is a very small minority of states that seem to think the ban treaty should try to address detailed disarmament processes at this time.

More broadly, however, perspectives on verification have some divergences. Argentina and Switzerland seem to have suggested that the treaty will be relatively meaningless without verification of its prohibitions, with the Argentinian representative describing it as a nothing

more than a “symbolic declaration” if it does not contain strong verification mechanisms.

Most of the states participating in these negotiations, however, do not share this view. Rather, there seems to be broad agreement that existing verification mechanisms, including those under the Non-Proliferation Treaty and nuclear weapon free zone treaties, should be sufficient. States could consider mechanisms for consultation and cooperation amongst states parties to facilitate implementation and compliance with the treaty prohibitions. It’s important to remember that the core prohibitions, as broadly outlined, mean states joining this treaty reject nuclear weapons in principle and practice. Building on this community of states will help build confidence and assist others in finding ways to cooperate to effectively implement the treaty.

A few issues will require further debate. While there was broad support for including a specific prohibition on testing, some expressed concern that this would undermine the Comprehensive Nuclear-Test-Ban Treaty, both in letter and in norm. Others hold the opposite view, that a prohibition on testing in a nuclear weapon prohibition treaty would reinforce the norm against testing, and that leaving it out could be in danger of creating a loophole. Some states believe that development includes testing, though, as Ireland said, this does not preclude the need for an explicit testing prohibition.

Threat of use was another issue of some contention, with some states such as Austria and Mexico suggesting it is not necessary. [Ambassador Thomas Hajnoczi of Austria](#) argued that there “is already a general prohibition on the threat of use of (armed) force in the UN Charter” and that including a prohibition of threat of use of nuclear weapons in this treaty “could be seen as calling into question the validity of that more general norm.” Others, such as South Africa argued that threat of use needs to be included. [Ambassador Nozipho Mxakato-Diseko of South Africa](#) said including threat of use “would be key to the effort to delegitimise the concept of nuclear deterrence.”

Many states, including those in the Caribbean Community, supported the inclusion of a provision on transit and transshipment. Austria argued it was too complicated to demarcate maritime and airspace, and sees transit as being included in assistance. Given the risks associated with the transit of nuclear weapons, and the relationship between transit and deployment, states will need to seriously consider this issue.

Despite these few issues, it appears that there is strong convergence amongst the vast majority on the core prohibitions for this treaty. There is also broad support for the inclusion of positive obligations, including on issues related to victim’s rights and environmental remediation. This edition of the *Nuclear Ban Daily* has several thoughtful pieces on these issues, so we welcome all delegates to read the full edition and consider what we can do with this opportunity before us to advance humanitarian disarmament law.

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