

The NPT Phoenix – Success from the ashes of failure?

Nuclear disarmament initiatives may survive the failure of the 2015 NPT Review Conference. United Nations forums could move them forward.

The States Parties to the nuclear Non-Proliferation Treaty failed spectacularly to reach agreement on a final conference document on 22 May after four weeks of negotiations at the United Nations in New York. The failure masks the fact that some real gains were made during the course of the negotiations. This included a number of proposals in the draft final document

<<http://reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2015/documents/DraftFinalDocument.pdf>>

that appeared to have found agreement by the NPT Parties. If acted upon, these proposals might be able to produce a phoenix from the ashes of the failed conference.

The conference collapsed on **the Middle East issue**. The United States, UK, Canada and possibly some others could not accept a call for the United Nations to convene a conference in March 2016 on establishing a Middle East zone free of nuclear weapons and other weapons of mass destruction. Their objection arose because it has not yet been possible to secure agreement by Israel to participate in such a conference. According to the UN guidelines on establishing nuclear-weapon-free zones <<http://www.un.org/disarmament/WMD/Nuclear/NWFZ.shtml>>, they should be arrived at freely by the States in the region. UN Security Council meets with phoenix mural behind

On the other hand, the establishment of such a zone was a core part of the agreement in 1995 to extend the NPT indefinitely, and was a vital part of the agreements of the 2000 and 2010 NPT Review Conferences. Progress on this issue is important to all States Parties to the NPT, and especially to the Arab countries and Iran. They perceive Israel's undeclared nuclear weapons program as threatening their security and undermining the nuclear non-proliferation regime. Indeed, the Arab countries and Iran are required to accept NPT verification and compliance measures as non-nuclear States, while Israel – a State believed to be nuclear armed - is exempt from these. This is seen as a double standard and discriminatory.

The collapse of the NPT Review Conference over the Middle East nuclear weapon free zone (NWFZ) issue is, therefore, very serious. However, it has not appeared to derail the warming relationship between Iran and the six power countries (China, France, Germany, Russia, UK and the US) which have succeeded in an interim agreement on the control and verification of Iran's nuclear energy program. Indeed, when the US and UK announced on May 22 their unwillingness to support a 2016 conference on a Middle East NWFZ, Iran did not immediately condemn these countries for their double standards. Instead, Iran called for a suspension of the NPT Review conference to allow further negotiations to try to reach a compromise. Although unsuccessful, this sign of good faith from Iran bodes well for the continued negotiations with the six powers, who aim to reach a final deal with Iran

The proposal to hold a UN conference on a Middle East NWFZ in 2016 regardless of whether Israel will join is not necessarily dead. It could be taken up by the UN General Assembly, a forum which unlike the NPT, does not always operate by consensus. However, to move ahead without agreement of Israel and without the support of all NPT Parties could weaken the conference, turning it into a

grandstanding event, and possibly reducing further the likelihood of Israel joining any process to establish such a zone.

There were **a number of other developments at the NPT Review Conference** that could make a breakthrough in multilateral negotiations for global nuclear disarmament. Such negotiations have been blocked in the Conference on Disarmament (CD) for nearly 20 years. The developments include the increased support for the Austria Pledge <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2015/documents/WP29.pdf> (now re-named **the Humanitarian Pledge**), a shift in focus from the CD to the United Nations as a whole to advance nuclear disarmament initiatives, and a general agreement (paragraph 154 (19) of the NPT draft outcome document <http://www.un.org/disarmament/WMD/Nuclear/NWFZ.shtml>) to establish a UN Open Ended Working Group on nuclear disarmament.

The Humanitarian Pledge, announced by Austria at the end of the Vienna Conference on the Humanitarian Impact of Nuclear Weapons <http://www.bmeia.gv.at/en/european-foreign-policy/disarmament/weapons-of-mass-destruction/nuclear-weapons-and-nuclear-terrorism/vienna-conference-on-the-humanitarian-impact-of-nuclear-weapons/> in December 2014, includes a commitment to 'close the legal gap' to prohibit and eliminate nuclear weapons. During the course of the NPT review Conference the number of countries endorsing the pledge increased from 65 to over 100. This elevates the political commitment to nuclear disarmament by those States signing. It also provides flexibility on the options for the legal gap to be filled, in order to ensure a critical mass and maximum effectiveness on which-ever legal instrument or instruments are negotiated.

Austria, along with members of the New Agenda Coalition (Brazil, Egypt, Ireland, Mexico, New Zealand and South Africa), emphasised that the pledge is not a specific call for a ban treaty (that could be negotiated without waiting for the nuclear-armed States). Rather, the NAC submitted a working paper outlining a ***range of options***

<http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2015/documents/WP9.pdf>.

These include a nuclear weapons convention (i.e. a treaty which includes all nuclear-armed States), a framework agreement, a ban treaty (as an interim measure), or a hybrid arrangement including a range of measures.

Another group of countries (Australia, Belgium, Canada, Colombia, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Japan, Lithuania, Netherlands, Poland, Portugal, Slovakia, Spain, Sweden and Ukraine) submitted a proposal

<http://reachingcriticalwill.org/images/documents/Disarmament-fora/npt/prepcom14/documents/WP23.pdf>

for the pursuit of a range of 'building blocks' toward a nuclear weapon free world. UNIDIR and the International Law and Policy Institute (ILPI) advanced ideas in this proposal further in a research paper on Effective Measures: Builders and Blockers

<http://unidir.ilpi.org/wp-content/uploads/2015/04/No-4-Builders-and-blockers-TGH-web.pdf>.

A key point in the paper is that 'States have different roles to play to complete the nuclear disarmament puzzle' and can therefore focus on different 'building blocks' in a complementary fashion.

Previous NPT Review Conferences have tasked the Conference on Disarmament to negotiate nuclear disarmament steps and/or a comprehensive agreement on nuclear

disarmament. However, the CD which operates by consensus has been blocked from undertaking any such negotiations for nearly 20 years. At the 2015 NPT Review Conference there was a shift towards advancing nuclear disarmament *in the full range of UN disarmament bodies. *This was promoted by a number of groups including the Nordic Five (see recommendation 15 of the working paper of Denmark, Finland, Iceland, Norway and Sweden http://www.un.org/en/ga/search/view_doc.asp?symbol=NPT/CONF.2015/WP.15), and was included in the draft final outcome document.

Indeed, there was a call in the document for the UN General Assembly (UNGA) to re-establish an **Open Ended Working Group (OEWG)** to develop effective measures (legal and other) for the achievement and maintenance of a nuclear-weapon-free world. Civil society groups including the International Association of Lawyers Against Nuclear Arms <http://lcnp.org/pubs/nuclear-disarmament-the-road-ahead-2015.pdf> and UNFOLD ZERO <http://www.unfoldzero.org/open-ended-working-group>, promoted the re-establishment of an OEWG at the NPT Conference, and will now focus on getting this agreed at the UNGA in October. If such a body is established by the UNGA, it could provide a forum to discuss the options outlined by the NAC and Building Blocks groups, find common ground between them and pave the way for actual negotiations.

Cuba has proposed

http://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Abruestung/HINW14/Statements/HINW14_Statement_Cuba.pdf

that such negotiations should aim to draft a **comprehensive nuclear abolition treaty (nuclear weapons convention)** ready for adoption at the UN High Level Conference which will be held no later than 2018.

Ireland, in its concluding statement at the NPT Review Conference

http://reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2015/statements/22May_Ireland.pdf,

indicated that, regardless of the NPT Conference outcome, the New Agenda Coalition would continue developing the options outlined in their working papers.

Nuclear disarmament initiatives are also moving ahead in other UN bodies. **The Marshall Islands** has launched a case against the nuclear armed States in the International Court of Justice

<http://www.unfoldzero.org/nuclear-zero-world-court-case> on implementation of their nuclear disarmament obligation. Marshall Islands, which was very active in the 2015 NPT Review Conference, is calling on the Court to instruct the nuclear weapon States to initiate multilateral negotiations for a nuclear weapons convention within one year of the court's judgement.

UNFOLD ZERO was also promoting other UN-based nuclear disarmament initiatives at the NPT Review Conference, including a proposal for the UN Security Council and UNGA to affirm the illegality of the targeting of populated areas with nuclear weapons

<http://www.unfoldzero.org/will-united-nations-ban-nuclear-targeting-populated-areas>.

The International Day for the Total Elimination of Nuclear Weapons

<http://www.unfoldzero.org/september-26-2014> on September 26 will provide a good opportunity to build public awareness, elevate the nuclear disarmament issue up the political ladder and publicise these initiatives at the United Nations.

Other civil society coalitions involved in the NPT Review Conference are joining UNFOLD ZERO to focus on September 26 and the United Nations as a key opportunity

to take forward nuclear abolition proposals. These include **Peace and Planet** <http://www.peaceandplanet.org> and **Global Wave** <http://www.globalwave2015.org>, which presented a nuclear abolition petition signed by over 7 million people to the Conference, organised a huge rally and march in New York <http://www.globalwave2015.org/media/2015/5/6/global-wave-on-peaceplanet-rally-in-new-york-april-26> and inspiring actions in more than 50 other countries <http://www.globalwave2015.org/news-2/2015/5/6/global-wave-for-nuclear-abolition-as-world-leaders-gather-for-non-proliferation-conference>.