

III. Other developments in multilateral arms control and disarmament

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Progress with global efforts on nuclear disarmament, non-proliferation and arms control continued to stall in 2015, with deadlock at the Conference on Disarmament and at the Non-Proliferation Treaty (NPT) Review Conference (see section II).

The Conference on Disarmament

The Conference on Disarmament (CD), the sole multilateral forum for negotiating multilateral arms control treaties failed once again to reach consensus on a programme of work.¹ The CD held 40 formal and 33 informal plenary meetings in 2015. It discussed, among other things: (a) cessation of the nuclear arms race and nuclear disarmament; (b) prevention of nuclear war, including all related matters; (c) prevention of an arms race in outer space; and (d) effective international arrangements to assure non-nuclear weapon states (NNWS) against the use or threat of use of nuclear weapons.² In the absence of an agreed programme of work, negotiations could not be held on any item.

The areas of disagreement pertain to the lack of balance in the programme of work. Many states believe that negotiations should commence on a treaty banning the production of weapon-usable fissile materials, while discussing in parallel the prevention of an arms race in outer space (PAROS), negative security assurances (NSA) and nuclear disarmament. Others states would prefer to start parallel negotiations on PAROS, NSA and nuclear disarmament.

In March 2015 the CD held a High Level Segment for foreign ministers to address the conference, taking advantage of their presence in Geneva for meetings of the Human Rights Council. Foreign ministers and other senior officials from 31 member states addressed the CD, emphasizing, among other things, the importance of the 2015 NPT Review Conference and the humanitarian consequences of the use of nuclear weapons.

The first ever Informal Civil Society Forum of the CD was held on 19 March 2015, with the aim of facilitating initiatives that could help address

¹ United Nations Office in Geneva, 'An introduction to the conference', [n.d.].

² Conference on Disarmament, 'Report of the Conference on Disarmament to the General Assembly of the United Nations', CD/2046, 18 Sep. 2015.

the impasse at the CD through informal interactions among states and civil society representatives.³

The Third Conference of the States Parties and Signatories of Treaties that Establish Nuclear Weapon-Free-Zones and Mongolia

The Third Conference of the States Parties and Signatories of Treaties that Establish Nuclear Weapon-Free-Zones (NWFZ) and Mongolia convened at the United Nations in New York on 24 April 2015. One objective of the conference was to advance the legitimacy of members of NWFZs to advocate for a world free of nuclear weapons. A second objective was to review the operation of the treaties that created the NWFZs with regard to their nuclear non-proliferation clauses and the development and use of nuclear energy for peaceful purposes. The third objective was to promote the establishment of new NWFZs, as each new group of states that establishes an NWFZ represents progress towards the achievement of a nuclear weapon-free world. The final objective was based on the last paragraph of the outcome document of the Second Conference: to 'continue to pursue international efforts to achieve a nuclear weapon-free world through cooperation among the nuclear-weapon-free zones to fully implement the principles and objectives of the treaties and to exchange relevant ideas and best practices in areas of mutual interest'. NWFZs cover 116 states including Mongolia, which has declared itself to be a one-state NWFZ.

At the conference, the United Nations High Representative for Disarmament, Angela Kane, outlined the contribution of NWFZs: (a) 'they are a practical means for outlawing nuclear weapons within a specified geographic area'; (b) 'in parts of the world where so many have suffered from the effects of nuclear tests, they are a means to ensure future generations will not endure the same fate'; (c) 'they are an essential building block for a world free of nuclear weapons'; and (d) 'these agreements represent a broad regional consensus to reject nuclear weapons and the grave dangers they pose to humanity and the environment'.⁴ Kane also noted that since the Second Conference of the States Parties and Signatories of Treaties that Establish Nuclear Weapon-Free-Zones in 2010 the nuclear weapon states (NWS) have signed protocols to the Central Asian Nuclear Weapon-Free Zone and jointly pledged to respect Mongolia's nuclear weapon-free status.

³ United Nations Office in Geneva, 'Informal Civil Society Forum on the Conference on Disarmament', [n.d.].

⁴ Kane, A., High Representative for Disarmament Affairs, 'Nuclear-weapon-free zones: building blocks for a world free of nuclear weapons', Statement at Third Conference of States Parties and Signatories of Treaties that Establish Nuclear-Weapon-Free Zones and Mongolia, New York, 24 Apr. 2015.

The 2015 conference, which was chaired by Indonesia, failed to agree a conference statement or recommendations due to differences between Algeria, Morocco and Nigeria and some other states over the status of the Sahrawi Arab Democratic Republic, which was previously the Western Sahara.⁵

The United Nations General Assembly

The 70th session of the UN General Assembly adopted the usual resolutions sent up by its First Committee on a variety of arms control and disarmament matters, most by voting and a few without a vote.⁶ The key resolutions were on: (a) the risk of nuclear proliferation in the Middle East; (b) prevention of an arms race in outer space; (c) taking forward multilateral nuclear disarmament negotiations; (d) a convention on the prohibition of use of nuclear weapons; (e) united action towards the total elimination of nuclear weapons; (f) a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices; (g) the humanitarian impact of nuclear weapons (HINW); (h) a humanitarian pledge for the prohibition and elimination of nuclear weapons; (i) moving towards a nuclear weapon-free world; and (j) the 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT).⁷

The creation of an open-ended working group

The most notable success of the First Committee and the General Assembly was the adoption of resolutions on taking forward multilateral disarmament negotiations through the establishment of an open-ended working group (OEWG). The original idea was floated during the 2015 NPT Review Conference and was co-sponsored by a group of 23 countries associated with the HINW concept (see section II). The General Assembly decided that the OEWG ‘shall convene in Geneva, in 2016, as a subsidiary body of the General Assembly and under its rules of procedure, for up to 15 working days . . . with the participation and contribution of international organizations and civil society representatives’.⁸ The mandate of the OEWG is to ‘substantively

⁵ The Sahrawi Arab Democratic Republic is a signatory to the African Nuclear-Weapon-Free Zone Treaty. African Nuclear-Weapon-Free Zone Treaty (Treaty of Pelindaba), 11 Apr. 1996, entered into force 15 July 2009.

⁶ Conference on Disarmament, ‘Letter dated 4 January 2016 from the Secretary-General of the United Nations addressed to the President of the Conference on Disarmament transmitting the resolutions and decisions on disarmament and international security matters adopted by the General Assembly at its seventieth session’, CD/2049, 5 Jan. 2016.

⁷ Voting results (Yes-No-Abstain) were as follows: (a) vote on the resolution as a whole, 157-5-20; (b) vote on the resolution as a whole, 173-0-3; (c) vote on the resolution as a whole, 138-12-34; (d) vote on the resolution as a whole, 130-48-8; (e) vote on the resolution as a whole, 166-3-16; (f) vote on the resolution as a whole, 179-1-5; (g) vote on the resolution as a whole, 144-18-22; (h) vote on the resolution as a whole, 139-29-17; (i) vote on the resolution as a whole, 172-6-3; and (j) vote on the resolution as a whole, 181-1-3. Comprehensive Nuclear-Test-Ban Treaty (CTBT), opened for signature 24 Sep. 1996, not in force.

⁸ UN General Assembly Resolution 70/33, 7 Dec. 2015.

address concrete effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons'.⁹ In addition the resolution requested that the OEWG:

substantively address recommendations on other measures that could contribute to taking forward multilateral nuclear disarmament negotiations, including but not limited to (a) transparency measures related to the risks associated with existing nuclear weapons; (b) measures to reduce and eliminate the risk of accidental, mistaken, unauthorized or intentional nuclear weapon detonations; and additional measures to increase awareness and understanding of the complexity of and interrelationship between the wide range of humanitarian consequences that would result from any nuclear detonation.¹⁰

Resolutions relating to the humanitarian impact of nuclear weapons

The 'Humanitarian Pledge for the Prohibition and Elimination of Nuclear Weapons' was endorsed by a resolution of the General Assembly with 128 states voting in favour, 29 against and 18 abstentions. The original humanitarian pledge was initiated at the Vienna Conference on the Humanitarian Impact of Nuclear Weapons on 8–9 December 2014, as a national pledge by Austria.¹¹ Among other things, Austria pledged to 'present the facts-based discussions, findings and compelling evidence of the Vienna Conference . . . to all relevant forums, in particular the NPT Review Conference 2015 and in the UN framework, as they should be at the centre of all deliberations, obligations and commitments with regard to nuclear disarmament' (see section II).¹²

The General Assembly resolution 'welcomed the fact that 120 States had drawn inescapable conclusions from the evidence on the humanitarian impact of nuclear weapons and, consequently, supported or endorsed the Humanitarian Pledge'.¹³ Echoing the main points and the calls to action set out in the humanitarian pledge, the General Assembly resolution: (a) appealed 'to all states to follow the imperative of human security for all and to promote the protection of civilians against risks stemming from nuclear weapons; (b) urged all NPT states parties 'to renew their commitment to the urgent and full implementation of their existing obligations under Article VI' of the NPT; (c) called on 'all States to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons and to cooperate with all stakeholders to achieve this goal';

⁹ UN General Assembly Resolution 70/33 (note 8).

¹⁰ UN General Assembly Resolution 70/33 (note 8).

¹¹ Vienna Conference on the Humanitarian Impact of Nuclear Weapons, 'Pledge presented at the Vienna Conference on the Humanitarian Impact of Nuclear Weapons by Austrian Deputy Foreign Minister Michael Linhart', Vienna, 8–9 Dec. 2014.

¹² Vienna Conference on the Humanitarian Impact of Nuclear Weapons (note 11).

¹³ UN General Assembly Resolution 70/48, 7 Dec. 2015.

(*d*) requested ‘all States possessing nuclear weapons, pending the total elimination of their nuclear weapon arsenals, to take concrete interim measures to reduce the risk of nuclear weapon detonations, including by reducing the operational status of nuclear weapons and moving nuclear weapons away from deployment and into storage, diminishing the role of nuclear weapons in military doctrines and rapidly reducing all types of nuclear weapons’; and (*e*) called on ‘all relevant stakeholders, States, international organizations, the International Red Cross and Red Crescent Movement, parliamentarians and civil society to cooperate in efforts to stigmatize, prohibit and eliminate nuclear weapons in the light of their unacceptable humanitarian consequences and associated risks’.¹⁴

The General Assembly also adopted a resolution on the humanitarian consequences of nuclear weapons by a vote of 144 in favour, 18 opposed and 22 abstentions. The resolution, (*a*) reaffirmed ‘the role of civil society, in partnership with Governments, in raising awareness about the unacceptable humanitarian consequences of nuclear weapons’; (*b*) emphasized ‘that the catastrophic consequences of nuclear weapons affect not only Governments but each and every citizen of our interconnected world and have deep implications for human survival, for the environment, for socioeconomic development, for economies and for the health of future generations’; (*c*) stressed ‘that it is in the interest of the very survival of humanity that nuclear weapons are never used again, under any circumstances’; (*d*) emphasized ‘that the only way to guarantee that nuclear weapons will never be used again is their total elimination’; (*e*) stressed ‘that the catastrophic effects of a nuclear weapon detonation, whether by accident, miscalculation or design, cannot be adequately addressed’; (*f*) expressed the firm belief ‘that awareness of the catastrophic consequences of nuclear weapons must underpin all approaches and efforts towards nuclear disarmament’; and (*g*) called on ‘all States, in their shared responsibility, to prevent the use of nuclear weapons, to prevent their vertical and horizontal proliferation and to achieve nuclear disarmament’.¹⁵

The voting on the two resolutions on the humanitarian dimensions of nuclear weapons reflected the diverging views between the NWS and the NNWS, and among some North Atlantic Treaty Organization (NATO) and European Union (EU) NNWS.

The five NWS voted against both resolutions. In their common explanation of vote (EOV) delivered by the United Kingdom on behalf of itself, France and the United States, the UK stated that the intent behind these resolutions was to prohibit the possession and use of nuclear weapons now, even if those states in possession of the weapons did not sign up to the prohibition. The

¹⁴ UN General Assembly Resolution 70/48 (note 13).

¹⁵ UN General Assembly Resolution 70/47, 7 Dec. 2015.

UK added that the three states believed that a ban on nuclear weapons risked ‘undermining the NPT, creating a far less certain world of the sort before the NPT’s entry into force and near universality, when many regions were faced with the prospect of nuclear proliferation, and uncertainty and mistrust impeded access to the peaceful uses of nuclear energy’. While stressing that the three states were committed to pursuing the goal of a world without nuclear weapons, the UK noted that the ‘very real international security concerns’ also needed to be taken into consideration, and thus a step-by-step approach was the only way to combine the imperatives of disarmament and of maintaining global stability.¹⁶ In its EOV, China noted, among other things, that it believed that nuclear disarmament should be pursued through an incremental approach upholding the NPT, maintaining global strategic balance and stability, and keeping to the principle of consensus.¹⁷

The voting by NATO and EU member states was not entirely uniform. Most voted against the resolution on the humanitarian pledge but abstained on the resolution on the humanitarian consequences of nuclear weapons. Many of the states were sympathetic to the concerns about the humanitarian consequences of the use of nuclear weapons but did not support the move to prohibit nuclear weapons advocated by those supporting the humanitarian pledge for the prohibition and elimination of nuclear weapons.

Germany delivered the EOV on behalf of 27 delegations, including a number of NATO and EU member states as well as Australia and South Korea. Germany noted that the states joining the EOV were a diverse group that had variously abstained or opposed the resolutions, but ‘are united in a common purpose: to make concrete progress towards the goal of the ultimate elimination of all nuclear weapons in a determined but inclusive and pragmatic way’. Germany noted that these states wished ‘to register unequivocally that the grave humanitarian consequences of a nuclear weapon detonation are clear and not in dispute’, but ‘security and humanitarian principles co-exist’. As such, they argued that ‘realistic progress can only be achieved if both principles were given due consideration’.¹⁸

In their joint EOV, Sweden and Switzerland noted that they had voted in favour of the resolution on the humanitarian pledge but had not signed the pledge itself. They added that they did not believe that there was ‘a legal gap’

¹⁶ United Nations, General Assembly, ‘Explanation of vote before the vote by Ambassador Matthew Roland, United Kingdom Permanent Representative to the Conference on Disarmament, on behalf of France, the United Kingdom and the United States’, 2 Nov. 2015, The text of this explanation of vote and the others referred to below are available at the website of the non-governmental organization (NGO) Reaching Critical Will: <<http://reachingcriticalwill.org/disarmament-fora/unga/2015/resolutions>>.

¹⁷ United Nations, General Assembly, ‘Explanation of vote by the Chinese delegation on certain draft resolutions in the cluster of nuclear weapons’, 3 Nov. 2015.

¹⁸ United Nations, General Assembly, ‘Explanation of vote on the 3 humanitarian impact of nuclear weapons resolutions, delivered by Germany on behalf of 27 delegations’, [n.d.].

in existing international humanitarian law, or in specific treaties such as the NPT or the CTBT:

However, if we look at the body of disarmament law as a whole, it becomes clear that whereas other weapons of mass destruction such as biological and chemical weapons are banned, nuclear weapons are not. In addition, to implement Article VI of the NPT, further legal instruments are needed—be they bilateral, plurilateral or multilateral—to achieve and maintain a nuclear weapon free world. Our Governments therefore endorse the call in the resolution to pursue legal effective measures. In so doing, our delegations do not see a nuclear ban treaty as the only available legal option for achieving a world free of nuclear weapons. We emphasise that we would be favourably disposed towards any set of effective legal measures and underline that any process towards the elaboration of new legal instruments would need to be undertaken with the participation and engagement, not the stigmatization, of countries possessing nuclear weapons and their allies.¹⁹

North Korea joined the NATO member states and those EU member states that abstained on both resolutions, while Israel voted against both resolutions. India voted in favour of the resolution on humanitarian consequences but abstained on the humanitarian pledge, while Pakistan abstained on both resolutions.

The discussion and the positions on nuclear weapons essentially mirrored those at the failed 2015 NPT Review Conference and showed no prospect of convergence on a shared plan of action. No doubt they will be evident again at the OEWG on taking forward multilateral negotiations on nuclear disarmament, which is scheduled to meet in 2016.

The International Partnership for Nuclear Disarmament Verification

The International Partnership for Nuclear Disarmament Verification (IPNDV) was proposed by the USA in December 2014 to develop further understanding of the complex technical challenges of nuclear verification.²⁰ The inaugural meeting was held in Washington, DC, on 19–20 March 2015. It was attended by 26 states—both NWS and NNWS—as well as by representatives from the EU. Three working groups (WGs) were established to build capacity among partner states and explore solutions to fundamental nuclear monitoring and verification challenges. WG 1 on Monitoring and Verification Objectives was chaired by Emmanuele Farruggia of Italy and Piet de Klerk of the Netherlands. WG 2 on On-site Inspections was chaired by Robert Floyd of Australia and Marek Sobotka of Poland. WG 3 on Technical Challenges and Solutions was chaired by Jens Wirstam of Sweden

¹⁹ United Nations, General Assembly, 'Explication de vote de la Suisse' [Explanation of vote by Switzerland], 2 Nov. 2015.

²⁰ US Department of State, Gottemoeller, R., Under Secretary for Arms Control and International Security, 'The vision of Prague endures', Speech in Prague, 4 Dec. 2014.

and Kurt Siemon of the USA. A second meeting was held in Oslo on 16–18 November 2015.

WG 1 will ‘examine key phases of the nuclear weapons lifecycle and assess potential monitoring and verification objectives, methods and activities for each of these phases, including the deployment and storage of nuclear warheads through the disassembly and dismantlement process to the disposition of nuclear materials arising from dismantlement’.²¹ WG 2 ‘will explore the lessons learned from various on-site inspection regimes . . . assess the applicability and utility of these principles to potential future nuclear arms control agreements, and identify potential new inspection activities and techniques that could effectively verify compliance with future agreements’.²² WG 3 ‘will work to develop solutions for key technical challenges for Nuclear Weapons States [NWS] and Non-nuclear Weapons States [NNWS] related to nuclear disarmament verification, particularly issues focusing on nuclear warhead authentication, methods for establishing and maintaining chain of custody, and data and equipment authentication’.²³

The IPNDV is managed by the Nuclear Threat Initiative (NTI) as a multi-year public-private partnership between the NTI and the US Department of State. Its objective is to help strengthen trust to develop common understandings of the challenges and constraints regarding the verification of nuclear disarmament, in the hope of easing the growing tensions between the NWS and the NNWS on nuclear disarmament.²⁴

²¹ International Partnership for Nuclear Disarmament Verification, ‘Working Group 1: Monitoring and Verification Objectives’, Terms of Reference, 18 Nov. 2015.

²² International Partnership for Nuclear Disarmament Verification, ‘Working Group 2: On-Site Inspections’, Terms of Reference, 18 Nov. 2015.

²³ International Partnership for Nuclear Disarmament Verification, ‘Working Group 3: Technical Challenges and Solutions’, Terms of Reference, 18 Nov. 2015.

²⁴ Nuclear Threat Initiative, Second Plenary Meeting of the International Partnership for Nuclear Disarmament Verification, Oslo, 16–18 Nov. 2015.