

III. Initiatives and multilateral treaties on nuclear disarmament, non-proliferation and arms control

TARIQ RAUF

The First Committee of the United Nations General Assembly deals with matters pertaining to disarmament, global challenges and threats to peace that affect the international community. It considers all disarmament and international security matters within the scope of the UN Charter, including general principles of cooperation in the maintenance of international peace and security, as well as principles governing disarmament and the regulation of armaments, promotion of cooperative arrangements and measures aimed at strengthening stability through lower levels of armaments. The First Committee works in close collaboration with the UN Disarmament Commission and the Conference on Disarmament.¹ In 2016 there were three notable developments at the First Committee with the adoption of resolutions mandating (a) negotiations under General Assembly rules on a legally binding instrument to prohibit nuclear weapons, leading to their elimination; (b) the convening of a 25-member high-level preparatory group on a fissile material cut-off treaty; and (c) the establishment of a group of governmental experts on disarmament verification. On 24 December 2016 the General Assembly took action on the report of the First Committee and adopted the resolutions forwarded by the First Committee, including the three noted above.²

Open-ended Working Group

One notable success in 2016 for multilateral nuclear diplomacy and the (2013–14) humanitarian initiative on the consequences of nuclear weapons was the convening of an Open-ended Working Group (OEWG). The OEWG, which was established pursuant to a resolution adopted in 2015 by the First Committee and the General Assembly, aims to substantively address recommendations on measures that could contribute to taking forward multilateral nuclear disarmament negotiations.³ The idea for the creation of an OEWG originated during the 2015 Review Conference of the 1968 Treaty on Non-Proliferation of Nuclear Weapons (NPT) and the UN resolution

¹ United Nations Office for Disarmament Affairs, 'United Nations Disarmament Commission', [n.d.]; and United Nations Office at Geneva, 'An introduction to the conference', [n.d.].

² United Nations, Department of Public Information, 'General Assembly concludes main part of seventy-first session, adopting 15 texts recommended by Fifth Committee', Press Release GA/11882, 24 Dec. 2016.

³ UN General Assembly Resolution A/70/33, 7 Dec. 2015. See also Rauf, T., 'Other developments in multilateral arms control and disarmament', *SIPRI Yearbook 2016*, pp. 702–706.

adopted in 2015 was co-sponsored by a group of 22 countries associated with the humanitarian consequences of nuclear weapons.⁴

Under the 2015 resolution, the OEWG convened in Geneva in 2016 as a subsidiary body of the General Assembly, with the participation and contribution of states, international organizations and civil society representatives. The 2015 resolution provided that the OEWG should convene for up to 15 working days during 2016. The mandate of the OEWG as agreed by states was to substantively address (a) concrete effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons; and (b) recommendations on other measures that could contribute to taking forward multilateral nuclear disarmament negotiations, including but not limited to: (i) transparency measures related to the risks associated with existing nuclear weapons; (ii) measures to reduce and eliminate the risk of accidental, mistaken, unauthorized or intentional nuclear weapon detonations; and (iii) 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.⁵

At its first formal meeting on 22 February 2016, the OEWG elected by acclamation Ambassador Thani Thongphakdi of Thailand as its chair.⁶ The OEWG structured its work during 22–26 February 2016 around two panels.⁷ Panel I covered concrete effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons. Panel II addressed other measures that could contribute to taking forward multilateral nuclear disarmament negotiations, including: (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; (c) additional measures to increase awareness and understanding of the complexity of and interrelationship between the wide range of humani-

⁴ The following countries co-sponsored the resolution: Austria, Brazil, Chile, Costa Rica, Ecuador, Georgia, Ghana, Ireland, Kenya, Liechtenstein, Malta, the Marshall Islands, Mexico, Nicaragua, Nigeria, Panama, Peru, the Philippines, South Africa, Trinidad and Tobago, Uruguay and Venezuela. United Nations, General Assembly, 'Taking forward multilateral nuclear disarmament negotiations', Draft resolution, A/C.1/70/L.13/Rev.1, 29 Oct. 2015.

⁵ United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, Provisional agenda, A/AC.286/1, 12 Feb. 2016.

⁶ United Nations Office at Geneva, 'Taking forward multilateral nuclear disarmament negotiations in 2016', [n.d.].

⁷ United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, 'Revised indicative timetable week 22 to 26 February 2016', A/AC.286/WP.1/Rev.1, 19 Feb. 2016.

tarian consequences that would result from any nuclear detonation; and (d) other measures.⁸

During the second session of the OEWG that took place on 2–13 May 2016, the group structured its deliberations around six panels—namely the following.⁹

1. Panel I: on measures to reduce and eliminate the risk of accidental, mistaken, unauthorized or intentional nuclear weapon detonations.

2. Panel II: on transparency measures related to the risks associated with existing nuclear weapons.

3. Panel III: on 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.

4. Panel IV: on essential elements that would comprise effective legal measures, legal provisions and norms that will need to be concluded to attain and maintain a world without nuclear weapons.

5. Panel V: on possible pathways to take forward multilateral nuclear disarmament negotiations.

6. Panel VI: on other measures, including reviewing the role of nuclear weapons in the security and other contexts of the 21st century.

The chair's synthesis paper and report

Presentations were made to the OEWG in February 2016 by various experts (including non-governmental organization experts). These were followed by interactive discussions with delegations.¹⁰ In May 2016, national delegations made statements in the panels followed by interactive discussions.¹¹ The chair circulated an advance copy of his 'synthesis paper' in Geneva on 21 April and again in New York on 25 April, summarizing the main issues raised and recommendations made during the February session.¹² It noted that the work of the OEWG was influenced by deep concern over the threat to humanity posed by the existence of nuclear weapons and the catastrophic humanitarian consequences of any detonation. Given these risks, the syn-

⁸ United Nations Office at Geneva, 'Taking forward multilateral nuclear disarmament negotiations in 2016: presentations by panelists', [n.d.].

⁹ United Nations General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, 'Revised indicative timetable 2 to 13 May 2016', A/AC.286/WP.2/Rev.1, 28 Apr. 2016.

¹⁰ United Nations Office at Geneva, 'Taking forward multilateral nuclear disarmament negotiations in 2016: presentations by panelists' (note 8); and United Nations Office at Geneva, 'Taking forward multilateral nuclear disarmament negotiations in 2016: exchange of views', [n.d.].

¹¹ United Nations Office at Geneva, 'Taking forward multilateral nuclear disarmament negotiations in 2016: exchange of views' (note 10).

¹² United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, 'Chair's synthesis paper', 25 Apr. 2016.

thesis paper stressed the need for urgent action by all states that would lead towards a world without nuclear weapons. However, the synthesis paper also noted that progress towards nuclear disarmament has been slow. The synthesis paper stated that divergent views had been presented on the existence of a legal gap in the current international regime for the prohibition and elimination of nuclear weapons. Some delegations had noted that while Article VI of the NPT established an obligation on each of the states parties to pursue negotiations in good faith on effective measures relating to nuclear disarmament, the NPT did not provide further guidance as to the objectives of such negotiations, either legal or non-legal. Hence, it was noted by some delegations that additional and more specific legally binding provisions and other normative arrangements were required to operationalize and complement the NPT, and that such provisions and arrangements could be pursued on a multilateral, regional, plurilateral or bilateral basis.¹³

On the other hand, some delegations were of the view that there was no such legal gap and that the NPT provided an essential foundation for the pursuit of nuclear disarmament.¹⁴ These delegations maintained that there was no general and universally applicable authorization or prohibition in international law regarding the possession of nuclear weapons. They further stressed that the international security environment, current geopolitical situation and role of nuclear weapons in existing security doctrines should be taken into account in the pursuit of any effective measures for nuclear disarmament, otherwise nuclear-armed states, and other states that relied on nuclear weapons in their security doctrines, would not participate. They further considered that the best chance for reaching a world without nuclear weapons was by involving in the negotiations all states that possessed nuclear weapons.

The chair's synthesis paper noted that the OEWG had broadly considered the main features of four distinct approaches for the pursuit of a world without nuclear weapons. These approaches were not necessarily mutually exclusive.¹⁵

The first approach was a comprehensive nuclear weapon convention. Such a convention would establish all provisions for the prohibition and elimi-

¹³ United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, 'Chair's synthesis paper' (note 12). See also United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, 'The "legal gap": recommendations to the Open-ended Working Group on taking forward nuclear disarmament negotiations', A/AC.286/WP.36, 4 May 2016.

¹⁴ See e.g. United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, 'The existence of a "legal gap"', A/AC.286/WP.16, 12 Apr. 2016; and United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, 'Is there a "legal gap" for the elimination and prohibition of nuclear weapons?', A/AC.286/WP.20/Rev.1, 27 Apr. 2016.

¹⁵ United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, 'Chair's synthesis paper' (note 12).

nation of nuclear weapons and include effective means for verification and inspection. All states possessing nuclear weapons would have to participate from the outset of negotiations.

The second approach was a nuclear weapon ban treaty. Such a treaty would provide the basic prohibitions and obligations for all states parties and establish political objectives for the complete elimination of nuclear weapons. However, it would not include provisions on existing nuclear arsenals and their elimination, or on verification. To be effective it would not necessarily need to be universal nor include any nuclear weapon-possessing state at its inception.

The third approach was a framework (or ‘chapeau’) agreement. Such an agreement would establish key prohibitions and provide for the subsequent negotiation of protocols that elaborated measures for the elimination of nuclear weapons and related objectives. It would not necessarily include a specific time frame for achieving this.

The fourth approach was a progressive one based upon ‘building blocks’. Such an approach would elaborate parallel and simultaneous building blocks consisting of effective legal and non-legal measures as well as confidence-building measures. These measures could be multilateral, plurilateral, bilateral and unilateral, leading to a comprehensive nuclear weapon convention as the final step after reaching the ‘minimization point’.¹⁶ Negotiations on such a convention could only commence when all states considered the goal of a world without nuclear weapons to be achievable.¹⁷

The chair then circulated an advanced version of his report to the General Assembly on 28 July 2016 followed by a revised draft report on 15 August and a second revision of the draft report on 18 August, with minor revisions in each version.¹⁸ The OEWG discussed and reviewed the chair’s reports on 5, 16–17 and 19 August.

¹⁶ The ‘minimization point’ refers to a point where nuclear weapons have been greatly reduced from current numbers, to a minimal number from which the next step would be elimination of all nuclear weapons or ‘zero’ nuclear weapons.

¹⁷ United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, ‘Chair’s synthesis paper’ (note 12). See also United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, ‘A progressive approach to a world free of nuclear weapons: revisiting the building blocks paradigm’, A/AC.286/WP.9, 24 Feb. 2016.

¹⁸ United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, ‘Draft Report of the Open-ended Working Group taking forward multilateral nuclear disarmament negotiations’, Advanced copy, 28 July 2016; United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, ‘Revised draft Report of the Open-ended Working Group taking forward multilateral nuclear disarmament negotiations’ Revised advanced copy, 15 Aug. 2016; and United Nations, General Assembly, Open-ended Working Group taking forward multilateral nuclear disarmament negotiations, ‘Revised draft Report of the Open-ended Working Group taking forward multilateral nuclear disarmament negotiations’, Advanced copy, 18 Aug. 2016.

The draft report noted that a majority of states had expressed support for the General Assembly to convene an international conference in 2017, open to all states, to begin negotiations on a legally binding prohibition of nuclear weapons leading towards their elimination. During the discussions on the draft report, many states reiterated their support for the opening of negotiations in 2017. This was opposed by, among others, the states advocating the progressive approach (outlined above), many of which are non-nuclear weapon North Atlantic Treaty Organization (NATO) members or NATO partner states.¹⁹ On 19 August, at the last meeting of the OEWG, it was understood that the draft report as amended could be agreed upon, with at least 107 states supporting the opening of negotiations in 2017. However, Australia subsequently demanded a vote on the adoption of the report, which in turn led to the adoption by a majority of an oral amendment by Guatemala that the OEWG unequivocally recommend negotiations on a nuclear weapon ban treaty in 2017.²⁰ The final report of the OEWG was adopted by a non-recorded vote of 68 in favour, 22 against and 13 abstentions.²¹

The conclusions and agreed recommendations of the OEWG stated that additional efforts could and should be pursued to elaborate concrete effective legal measures, legal provisions and norms that would need to be concluded to attain and maintain a world without nuclear weapons. The OEWG reaffirmed the importance of the NPT and recommended, with widespread support, the convening of a conference in 2017 by the General Assembly to negotiate a legally binding instrument to prohibit nuclear weapons.²² This conference would be open to all states with the participation and contribution of international organizations and civil society. The OEWG recognized that some other states did not agree with these recommendations and that they had recommended an alternative path towards multilateral nuclear disarmament negotiations.²³

¹⁹ United Nations, General Assembly, 'Taking forward multilateral nuclear disarmament negotiations', Note by the Secretary-General, A/71/371, 1 Sep. 2016, p. 19.

²⁰ United Nations, General Assembly, A/71/371 (note 19), p. 19, para. 71; and Acheson, R., 'OEWG report', vol. 2, no. 19, Reaching Critical Will, 19 Aug. 2016.

²¹ United Nations Office at Geneva (note 6).

²² States supporting this recommendation comprised, among others, members of the African Group (54 states), the Association of South East Asian Nations (10 states) and the Community of Latin American and Caribbean States (33 states), as well as a number of states from Asia and the Pacific and Europe.

²³ States supporting this recommendation comprised, among others, the 24 (out of 28) NATO member states that participated in the OEWG and other states (Australia, Japan and South Korea) relying on defence arrangements that include nuclear weapons. These were all advocates of the 'progressive' approach.

UN General Assembly and First Committee

In 2016 the First Committee met from 3 October–2 November and adopted a total of 71 resolutions either by consensus (without a vote) or by voting on a broad range of disarmament, non-proliferation and arms control issues.²⁴ The resolutions included 26 on nuclear weapons and 11 on other disarmament measures and international security (see table 12.3 for a selection of these resolutions).²⁵

Negotiations on a nuclear weapon ban treaty

Of the resolutions under consideration, Resolution L.41 that followed up the OEWG report on taking forward multilateral nuclear disarmament negotiations garnered the most attention and controversy prior to its adoption by a recorded vote with 123 states in favour, 38 against and 16 abstentions.²⁶ Of the 9 nuclear weapon-possessing states, only the Democratic People's Republic of Korea (DPRK, North Korea) voted in favour; China, India and Pakistan abstained; and France, Israel, Russia, the United Kingdom and the United States voted against. Among the states voting against the resolution were those participating in defence arrangements based on nuclear weapons such as Australia, Japan, the Republic of Korea (South Korea) and all NATO members except the Netherlands, which abstained. Finland and Switzerland also abstained, while Sweden joined the majority voting in favour. In its statement on Resolution L.41, the USA noted that 'A treaty banning nuclear weapons would do nothing to address underlying challenges that could not be separated from the broader international security environment. The world's nuclear arsenals did not appear overnight nor would they disappear overnight'.²⁷ On the other hand, Sweden stated that 'in a deteriorating security environment progress in nuclear disarmament is more important and urgent than ever'.²⁸

²⁴ United Nations, General Assembly, 'Action on draft resolutions and decisions under disarmament and international security agenda items', A/C.1/71/CRP.3/Rev.3, 25 Oct. 2016; United Nations, 'Addressing arms proliferation risks, First Committee approves 26 texts, including draft promoting nuclear-weapon-free Middle East', Press Release GA/DIS/3566, 1 Nov. 2016; and United Nations, 'First Committee sends 69 texts to General Assembly, concluding session by approving drafts on chemical weapons, improvised explosive devices', Press Release GA/DIS/3567, 2 Nov. 2016.

²⁵ Reaching Critical Will, 'Draft resolutions, voting results, and explanations of vote First Committee 2016', [n.d.].

²⁶ United Nations, General Assembly, 'Taking forward multilateral nuclear disarmament negotiations', A/C.1/71/L.41, 14 Oct. 2016. For detail of the voting record see Reaching Critical Will (note 25).

²⁷ United Nations, 'First Committee sends 22 texts to General Assembly, echoing call for expanding nuclear-weapon free zones into Middle East, bolstering disarmament efforts', Press Release GA/DIS/3563, 27 Oct. 2016.

²⁸ United Nations, General Assembly, Sweden, 'Explanation of vote by Sweden on L.41, taking forward multilateral nuclear disarmament negotiations', [n.d.], available at Reaching Critical Will, <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com16/eov/L41_Sweden.pdf>.

Table 12.3. Selected United Nations First Committee and General Assembly resolutions on nuclear weapons, other disarmament measures and international security, 2016

Resolution title	First Committee document	General Assembly resolution
Establishment of a nuclear-weapon-free zone in the region of the Middle East	A/C.1/71/L.1	A/RES/71/29
The risk of nuclear proliferation in the Middle East	A/C.1/71/L.2/Rev.1	A/RES/71/83
Convention on the prohibition of the use of nuclear weapons	A/C.1/71/L.10	A/RES/71/75
Reducing nuclear danger	A/C.1/71/L.11	A/RES/71/37
Conclusion of effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons	A/C.1/71/L.13	A/RES/71/30
Mongolia's international security and nuclear-weapon-free status	A/C.1/71/L.20	A/RES/71/43
Humanitarian consequences of nuclear weapons	A/C.1/71/L.23	A/RES/71/46
Humanitarian pledge for the prohibition and elimination of nuclear weapons	A/C.1/71/L.24	A/RES/71/47
United action with renewed determination towards the total elimination of nuclear weapons	A/C.1/71/L.26	A/RES/71/49
Comprehensive Nuclear-Test-Ban Treaty	A/C.1/71/L.28	A/RES/71/86
Nuclear-weapon-free southern hemisphere and adjacent areas	A/C.1/71/L.31	A/RES/71/51
Decreasing the operational readiness of nuclear weapons	A/C.1/71/L.33	A/RES/71/53
Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)	A/C.1/71/L.34	A/RES/71/27
Towards a nuclear-weapon-free world: accelerating the implementation of nuclear disarmament commitments	A/C.1/71/L.35	A/RES/71/54
Taking forward multilateral nuclear disarmament negotiations	A/C.1/71/L.41	A/RES/71/258
Follow-up to the advisory opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons	A/C.1/71/L.42	A/RES/71/58
Nuclear disarmament	A/C.1/71/L.47	A/RES/71/63
African Nuclear-Weapon-Free Zone Treaty	A/C.1/71/L.49	A/RES/71/26
Treaty on a Nuclear-Weapon-Free Zone in Central Asia	A/C.1/71/L.53	A/RES/71/65
Nuclear disarmament verification	A/C.1/71/L.57.Rev.1	A/RES/71/67
Follow-up to the 2013 high-level meeting of the General Assembly on nuclear disarmament	A/C.1/71/L.64	A/RES/71/71
Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices	A/C.1/71/L.65. Rev.1	A/RES/71/259

Sources: United Nations, General Assembly resolutions, 71st session, <<https://www.un.org/en/ga/71/resolutions.shtml>>; United Nations, General Assembly, 'Action on draft resolutions and decisions under disarmament and international security agenda items', A/C.1/71/CRP.3/

Rev.3, 25 Oct. 2016, <http://www.un.org/en/ga/first/71/PDF/CRP_3_Rev_3.pdf>; and Reaching Critical Will, 'Draft resolutions, voting results, and explanations of vote First Committee 2016', <<http://reachingcriticalwill.org/disarmament-fora/unga/2016/resolutions>>.

Pursuant to the resolution, states decided to convene a UN conference in 2017 to 'negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination'.²⁹ This conference shall take place in New York on 27–31 March 2017 and 15 June–7 July 2017, with the participation and contribution of states, international organizations and civil society representatives.³⁰

Coincidentally, on 27 October 2016—shortly after the adoption of Resolution L.41—the European Parliament adopted the Resolution on nuclear security and non-proliferation (2016/2936(RSP)) with 415 votes in favour, 124 opposed and 74 abstentions.³¹ The European Parliament resolution welcomed the completion of the work of the OEWG and its recommendation to hold a conference in 2017 to negotiate a legally binding instrument to prohibit nuclear weapons. The European Parliament invited European Union (EU) member states, the Vice-president of the European Commission and High Representative of the Union for Foreign Affairs, Federica Mogherini, and the European External Action Service to support the convening of such a conference and participate constructively in its proceedings.

On 23 December 2016 the General Assembly, acting on the report of its First Committee, adopted Resolution 71/258 on commencing negotiations in 2017 on a treaty banning nuclear weapons by a vote of 113 in favour, 35 against and 13 abstentions.³² The resolution noted, among other things, that the General Assembly had decided to convene a UN conference in March and June–July 2017 to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination, and encouraged all member states to participate in the conference.

Fissile material production ban treaty

Draft Resolution L.65 on a 'Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices' (FMCT) was adopted by the First Committee in October 2016. The resolution requested the UN Secretary-General to establish 'a high-level preparatory group on a fissile material cut-off treaty with a membership of 25 States, chosen on the basis of

²⁹ United Nations, A/C.1/71/L.41 (note 26).

³⁰ United Nations, A/C.1/71/L.41 (note 26).

³¹ European Parliament, European Parliament resolution of 27 Oct. 2016 on nuclear security and non-proliferation (2016/2936(RSP)); and European Parliament, Legislative Observatory, '2016/2936(RSP): 27/10/2016 Text adopted by Parliament, single reading', [n.d.].

³² United Nations, General Assembly, Report of the First Committee, A/71/450, 9 Nov. 2016; and UN General Assembly Resolution 71/258, 23 Dec. 2016. United Nations, Press Release GA/11882 (note 2). For detail of the General Assembly voting record see United Nations Voting Records, <<https://www.un.org/en/ga/documents/voting.asp>>.

equitable geographical representation, which will operate by consensus'.³³ The resolution tasks the group to meet in Geneva for two sessions of two weeks each (the first in 2017 and the second in 2018) to consider and make recommendations on substantial elements of a future non-discriminatory, multilateral and internationally and effectively verifiable FMCT. The group is also expected to draw on earlier work in this field, including the Shannon Mandate (CD/1299) and the report of the Group of Governmental Experts (GGE) as mandated in UN General Assembly Resolution 67/53, as well as on the views submitted by member states (as contained in two reports by the UN Secretary-General).³⁴ Finally, the chair of the high-level preparatory group is requested to organize two open-ended informal consultative meetings of two days each in New York. The first of these will meet in 2017 to consider the report of the GGE. The second will meet in 2018 where the chair will provide his own report on the work of the high-level preparatory group. The final report of the high-level preparatory group is due to be presented to the General Assembly at its 73rd session and to the Conference on Disarmament prior to its 2019 session.

Resolution L.65 was adopted by a recorded vote with 177 in favour, 1 against and 10 abstentions.³⁵ Pakistan, the only no vote, stated its well-known position that 'a treaty negotiated or considered under the Shannon Mandate does not guarantee the inclusion of existing stockpiles of fissile material in a manner that addresses the concerns' of Pakistan and that the 'current resolution is aimed at replicating the unsuccessful approach of the ill-advised GGE'.³⁶

On 23 December 2016 the General Assembly, acting on the report of its First Committee, adopted a resolution on a treaty banning the production of fissile material for nuclear weapons.³⁷ Adoption of the resolution was

³³ United Nations, General Assembly, 'Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices', A/C.1/71/L.65/Rev.1, 26 Oct. 2016.

³⁴ Conference on Disarmament, Report of Ambassador Gerald E. Shannon of Canada on consultations on the most appropriate arrangement to negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, CD/1299, 24 Mar. 1995; UN General Assembly Resolution 67/53, 3 Dec. 2013; United Nations, General Assembly, 'Group of Governmental Experts to make recommendations on possible aspects that could contribute to but not negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices', Note by the Secretary-General, A/70/81, 7 May 2015; United Nations, General Assembly, 'Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices', Report of the Secretary-General, A/68/154, 16 Dec. 2013; and United Nations, General Assembly, 'Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices', Report of the Secretary-General, A/71/140, 14 July 2016.

³⁵ For detail of the voting record see Reaching Critical Will (note 25).

³⁶ United Nations, General Assembly, Pakistan, 'Explanation of vote before the vote on draft resolution "Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices" (L.65)', available at Reaching Critical Will, <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com16/eov/L65_Pakistan.pdf>.

³⁷ United Nations, A/71/450 (note 32); and UN General Assembly Resolution 71/259, 23 Dec. 2016.

reached by a recorded vote of 158 in favour, 2 opposed (Italy and Pakistan) and 9 abstentions (including China, Egypt, Iran, Israel, Russia and Syria).³⁸

Verification of nuclear disarmament

Resolution L.57 on nuclear disarmament verification was adopted in the First Committee by a vote of 177 in favour, none against and 7 abstentions.³⁹ The resolution called on the UN Secretary-General to establish a group of governmental experts of up to 25 participants to consider the role of verification in advancing nuclear disarmament. Pursuant to the resolution, the group would meet in Geneva in 2018 and 2019 for a total of three sessions of five days each. The resolution also called for the development and strengthening of practical and effective nuclear disarmament verification measures, and encouraged the Conference on Disarmament and the Disarmament Commission to substantively address nuclear disarmament verification.⁴⁰ On 5 December 2016 the General Assembly adopted Resolution 71/67 on nuclear disarmament verification by a vote of 175 in favour, none against and 6 abstentions.⁴¹

Conference on Disarmament

In 2016 the Conference on Disarmament (CD)—which meets in Geneva and is the world's only mandated multilateral forum for negotiating arms control treaties—was once again unable to reach consensus on its programme of work and thus did not engage in any negotiations on any of its agenda items. Disagreement within the CD exists largely on the lack of balance in the programme of work. Many states are of the view that 'negotiations' should commence on a treaty banning the production of weapon-usable fissile materials while 'discussing' a number of issues in parallel, including: (a) the prevention of an arms race in outer space (PAROS); (b) negative security assurances to non-nuclear weapon states; and (c) nuclear disarmament. Other states instead prefer to begin parallel negotiations outside the CD on these issues.

The CD was in session in 2016 on 25 January–1 April, 16 May–1 July and 1 August–16 September, and held 30 formal plenary and 6 informal plenary

³⁸ United Nations, Press Release GA/11882 (note 2).

³⁹ For detail of the voting record see *Reaching Critical Will* (note 25).

⁴⁰ United Nations, General Assembly, 'Nuclear disarmament verification', A/C.1/71/L.57/Rev.1, 24 Oct. 2016.

⁴¹ UN General Assembly Resolution 71/67, 5 Dec. 2016; and United Nations, 'Adopting 63 First Committee texts, General Assembly addresses new threats, use of banned weapons, urges drive to curb arms proliferation', Press Release GA/11866, 5 Dec. 2016.

meetings.⁴² The 2016 presidency of the CD was held successively by Nigeria, Norway, Pakistan, Peru, Poland and South Korea.⁴³

The CD adopted the agenda for 2016 on 26 January, with the following items: (a) cessation of the nuclear arms race and nuclear disarmament; (b) prevention of nuclear war, including all related matters; (c) PAROS; (d) effective international arrangements to assure non-nuclear weapon states against the use or threat of use of nuclear weapons (security assurances); (e) new types of weapons of mass destruction and new systems of such weapons, and radiological weapons; (f) a comprehensive programme of disarmament; (g) transparency in armaments; and (h) consideration and adoption of the annual report and any other report, as appropriate, to the UN General Assembly.⁴⁴

Comprehensive Nuclear-Test-Ban Treaty

The year 2016 marked the 20th anniversary of the opening for signature of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) on 24 September 1996.⁴⁵ As of the end of 2016, 183 states had signed and 166 had ratified the CTBT. Pursuant to Article XIV and Annex 2 of the CTBT, 44 specific states must sign and ratify the CTBT in order for it to enter into force.⁴⁶ Of the 44, China, Egypt, Iran, Israel and the USA have signed but not ratified; the DPRK, India and Pakistan have yet to sign or ratify the CTBT.

To promote the entry into force of the CTBT, the five states recognized as nuclear weapon states under the NPT issued a joint statement on the CTBT on 15 September 2016.⁴⁷ The joint statement pledged to strive for the CTBT's early ratification and prompt entry into force. It also urged all states that have not yet done so to sign and ratify the CTBT, and reaffirmed the moratoria on nuclear weapon test explosions by the five nuclear weapon states.

⁴² Conference on Disarmament, Report of the Conference on Disarmament to the General Assembly of the United Nations, CD/2080, 22 Sep. 2016.

⁴³ In accordance with Rule 9 of the Rules of Procedure of the CD, the Presidency of the Conference rotates in the English alphabetical order of its 65 member states.

⁴⁴ Conference on Disarmament, CD/2080 (note 42), p. 5.

⁴⁵ Comprehensive Nuclear-Test-Ban Treaty (CTBT), opened for signature 24 Sep. 1996, not in force.

⁴⁶ The states listed in Annex 2 of the CTBT are: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Egypt, Finland, France, Germany, Hungary, India, Indonesia, Iran, Israel, Italy, Japan, Democratic People's Republic of Korea (DPRK, North Korea), Republic of Korea (South Korea), Mexico, the Netherlands, Norway, Pakistan, Peru, Poland, Romania, Russia, Slovakia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom, the United States, Viet Nam and Zaire.

⁴⁷ US Department of State, Office of the Spokesperson, 'Joint statement on the comprehensive Nuclear-Test-Ban Treaty by the Nuclear Nonproliferation Treaty Nuclear-Weapon States', 15 Sep. 2016. The five states recognized as nuclear weapon states under the NPT are: China, France, Russia, the United Kingdom and the United States.

On 23 September 2016 the UN Security Council adopted Resolution 2310 by a recorded vote of 14 in favour and 1 abstention (Egypt).⁴⁸ The resolution (a) urged all states that have not signed or ratified the CTBT to do so ‘without further delay’; (b) affirmed that the security assurances against the use of nuclear weapons ‘strengthen the nuclear non-proliferation regime’; (c) called upon all states to refrain from conducting any nuclear explosion and to maintain the moratoria; and (d) affirmed ‘that entry into force of the Treaty will contribute to the enhancement of international peace and security’. The original version of this resolution was drafted to be adopted under the framework of Chapter VII of the UN Charter, which would have made it legally binding on all UN member states. However, it was changed to its present formulation of being politically binding after negotiations with China and Russia.⁴⁹

While abstaining on the resolution, Egypt outlined its concerns. These included its consideration that (a) the Security Council was ‘not the appropriate forum’ to address the CTBT; (b) the resolution ‘failed to address urgency and criticality of steps towards nuclear disarmament’; and (c) the Security Council had engaged in a ‘cherry picking’ approach to disarmament. Furthermore, Egypt argued that the resolution text failed to highlight the importance of the NPT and did not refer to the NPT review conference outcome documents of 1995, 2000 and 2010 that had expressed support for the CTBT.⁵⁰

Malaysia stated that the resolution ‘did not sufficiently recognize the fact’ that the CTBT does not contain any provisions on total nuclear disarmament.⁵¹ It added that the challenge ahead was to ensure that there should not be a precedent regarding reference to documents in Security Council resolutions that could only be agreed by a handful of states, and that the resolution’s authority and credibility would be negated if the concerns of all Security Council members were not taken on board in a balanced manner. By contrast, US Secretary of State John Kerry noted in his statement that:

today Member States had a chance to reaffirm the Comprehensive Nuclear-Test-Ban Treaty’s promise of a more secure and peaceful planet. The resolution before the Council was a strong and necessary statement in support of the global community’s principles, reaffirming the de facto norm against nuclear testing and acknowledging

⁴⁸ UN Security Council Resolution 2310, 23 Sep. 2016; and United Nations, ‘Adopting Resolution 2310 (2016), Security Council calls for early entry into force of Nuclear-Test-Ban Treaty, ratification by eight Annex 2 hold-out states’, Press Release SC/12530, 23 Sep. 2016.

⁴⁹ Rauf, T., ‘“Unfinished business”: twentieth anniversary of the Comprehensive Nuclear-Test-Ban Treaty’, Atomic Reporters, 26 Sep. 2016. For the original version of the resolution see Atomic Reporters, <http://www.atomicreporters.com/wp-content/uploads/2016/09/CTBT_UNSC_draft_02Sep2016OCR.pdf>.

⁵⁰ United Nations, Press Release SC/12530 (note 48).

⁵¹ United Nations, Press Release SC/12530 (note 48).

the legitimate interest of States to receive assurances against the use or threat of use of nuclear weapons.⁵²

Russia expressed the hope that ‘the next president of the United States would be more strident in the Test-Ban Treaty’s ratification’.⁵³ China noted that the adoption of the resolution was important as the CTBT must enter into force.⁵⁴

Notably, Pakistan reiterated its support for the CTBT earlier in the year. In August 2016 Pakistan stated that it was prepared to consider translating its unilateral moratorium on nuclear testing into a bilateral arrangement on ‘non-testing’ with India.⁵⁵ According to media reports, the proposal was rejected by India.⁵⁶

⁵² United Nations, Press Release SC/12530 (note 48).

⁵³ United Nations, Press Release SC/12530 (note 48).

⁵⁴ United Nations, Press Release SC/12530 (note 48).

⁵⁵ Pakistani Ministry of Foreign Affairs, ‘Pakistan’s offer to India for a bilateral arrangement on non-testing of nuclear weapons’, Press release, 16 Aug. 2016.

⁵⁶ ‘India rejects Pakistan’s offer for nuclear test ban treaty’, *Deccan Herald*, 24 Sep. 2016.