

## The UN Treaty on the Prohibition of Nuclear Weapons: Tips for Users

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Italy did not take part in the negotiations of the *Treaty on the Prohibition of Nuclear Weapons*<sup>5</sup> (hereafter called *Ban Treaty*) recently passed<sup>6</sup> at UN on July 7, 2017: she is one of the 64 non-nuclear *NO states*, as we will call for short the 73 UN states (9 nuclear and 64 non-nuclear) that did not vote in favor of the *Ban Treaty* even if – with the only exception of the Netherlands – they did not actually vote NO, but simply refused to participate in the process. In May 2017, about one month before the start of the second, and final round of negotiations (15 June – 7 July), a few *USPID*, *ELN*<sup>7</sup>, *Landau Network*<sup>8</sup> and *Pugwash*<sup>9</sup> members considered appropriate to try to make their voice heard to recommend instead that Italy take part in the negotiations with an active role.

This has sparked a many-sided debate inside the said organizations, and in the end an *Open Letter* to the Italian Government<sup>10</sup> has been produced and signed by 18 Italian personalities:

- the Secretary General and all the Scientific Council members of *USPID*
- the Secretary Generals and a few members of *Pugwash* and *Landau Network*
- the Coordinator and a few members of the Italian Group of the *ELN*

It has then been sent on June 7, and finally it has been disclosed to the press on June 12.

The *Open Letter* of course did not affect the Italian Government position (too little, too late), but nonetheless it has prompted a meeting of a delegation of five among the signatories with an high representative of the Italian Government: on June 15 they indeed met at the Foreign Ministry the Undersecretary of State, Sen. Benedetto Della Vedova who is in charge of arms control and international security issues.

The delegation expressed its concern for Italy's decision not to participate in the negotiations for a nuclear ban convention, a decision deemed not coherent with the obligation, established by the article 6 of the *NPT*<sup>11</sup> and confirmed by a 1996 International Court of Justice ruling<sup>12</sup>, to negotiate "in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament..." It was also added that a nuclear weapons ban should not have been problematic for a country like Italy which has already renounced nuclear weapons by joining the *NPT* as a non-nuclear weapon state. The absence of *NATO* countries, moreover, could turn out being counterproductive even to *NATO* interests, because *NATO* states could have, for instance, argued and taken a position about a few sensitive points, as in particular the prohibition of nuclear weapons stationing in non-nuclear states territory, which instead are now included in the *Ban Treaty*.

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<sup>4</sup> [http://www.uspid.org/Eventi/Archivio/2017\\_09Castiglioncello\\_main.html](http://www.uspid.org/Eventi/Archivio/2017_09Castiglioncello_main.html)

<sup>5</sup> <http://undocs.org/A/CONF.229/2017/8>

<sup>6</sup> [https://s3.amazonaws.com/unoda-web/wp-content/uploads/2017/07/A.Conf\\_.229.2017.L.3.Rev\\_.1.pdf](https://s3.amazonaws.com/unoda-web/wp-content/uploads/2017/07/A.Conf_.229.2017.L.3.Rev_.1.pdf)

<sup>7</sup> *European Leadership Network*: <http://www.europeanleadershipnetwork.org/>

<sup>8</sup> *Landau Network – Centro Volta*: <http://landaunetwork.org/>

<sup>9</sup> *Pugwash Conferences on Science and World Affairs*: <https://pugwash.org/>

<sup>10</sup> [http://www.uspid.org/Documenti/AltriDocumenti/Archivio/Ulteriori/2017\\_06\\_GG\\_LetteraGovernoItaliano.pdf](http://www.uspid.org/Documenti/AltriDocumenti/Archivio/Ulteriori/2017_06_GG_LetteraGovernoItaliano.pdf)

<sup>11</sup> *Non Proliferation Treaty*: <https://www.un.org/disarmament/wmd/nuclear/npt/>

<sup>12</sup> <http://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf>

Undersecretary Della Vedova was also present at the subsequent *USPID-Pugwash 17<sup>th</sup> Castiglioncello Conference* (September 21-23, 2017) where he has explained the reasons that led to the decision not to participate in the UN conference. It would be useful to recall here that the Italian Government also had the occasion to clarify its position during a parliamentary Question Time on July 13 by answering in writing<sup>13</sup> to six Italian MP's of the *SEL*<sup>14</sup> group. In the present paper we will first try to briefly summarize some of the argumentations brought forth among the signatories of the *Open Letter*, and then we will add a few possible tips to take advantage of the accepted treatise.

There were first of all two levels of the discussion, overlapping but not exactly coincident, centered around two sets of questions:

- Is such a treaty desirable? Is its present text (draft and final) adapted to the needs of a realistically feasible disarmament? And if yes, how would it be possible in a foreseeable future to integrate the *NO-states*?
- What should have been the attitude of Italy and of the other non-nuclear *NO-states*? And in particular what about the provision forbidding the stationing of alien nuclear weapons on the territory of non-nuclear states?

As for the point one, concerns were first of all raised that a legally binding instrument banning nuclear weapons voted by a majority of UN countries could produce a sort of reduction of all the 9 nuclear states to the level of "rogue countries". Could not this apparent political stretching imperil the *NPT* regime and maybe also produce its collapse? Apparently an unwelcome outcome. Beyond these risks of polarization between the *YES* and the *NO states* endangering the *NPT* regime (and maybe also the entry into force of the *CTBT*<sup>15</sup>), there were, and there are doubts and criticisms about the provisions themselves and their wording in the *Ban Treaty* as it was in the draft, and as it is today (namely as it has been voted on July 7). However we will neglect this much debated point referring rather for its details to the available literature<sup>16</sup>.

It should be said however that a disappointing formulation of the treaty text could, and should have been prevented by a larger participation of the *NO states*: their aloofness instead could turn out to be a rather shortsighted attempt to take advantage of this absence to just discredit the *Ban Treaty* waiting for its eventual demise as a useless piece of paper because of the absence of the main protagonists: the nuclear states and their retinue of *umbrella states*. This on the other hand seems to be a rather dangerous attitude in a world where some kind of control over nuclear weapons (plain ownership, double key, smuggling and so on) is increasingly seen as desirable by state and non-state actors either for their survival, or for projecting power, or even for terrorism. The disengagement of the nuclear states on the field of disarmament and their disregard for the said article 6 of the *NPT* is a strong incentive in this sense, and the roots of the present North Korean crisis could in part be traced back to this nuclear arrogance.

Also the international press has recently argued in this sense<sup>17</sup>: it is astonishing indeed to see how the nuclear states do not realize – or at least behave as they don't – that "the growing North Korean menace – for instance – also reflects the chronic failure of multilateral counter-proliferation efforts and, in particular, the longstanding refusal of acknowledged nuclear armed states such as the US and Britain to honor a legal commitment to reduce and eventually eliminate their arsenals. ... US, Russia, China, France and the UK ... have to some degree brought the North Korea crisis on themselves. Kim Jong-un's recklessness and bad faith is a product of their own." The *NPT* bargain, due to soothe the concerns of "vulnerable, insecure outlier states such as North Korea, ...

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<sup>13</sup> <http://aic.camera.it/aic/scheda.html?numero=5-11829&ramo=C&leg=17>

<sup>14</sup> *Sinistra Ecologia e Libertà*: <http://www.sinistraecologia-liberta.it/>

<sup>15</sup> *Comprehensive Nuclear Test Ban Treaty*: <https://www.ctbto.org/fileadmin/content/treaty/treatytext.tt.html>

<sup>16</sup> See for instance: <https://fas.org/sgp/crs/nuke/IN10731.pdf>

<https://www.lowyinstitute.org/the-interpreter/nuclear-ban-treaty-progresses-despite-us-led-objections>

<https://www.nytimes.com/2017/07/07/world/americas/united-nations-nuclear-weapons-prohibition-destruction-global-treaty.html>

<sup>17</sup> <https://www.theguardian.com/world/2017/sep/05/nuclear-armed-nations-brought-the-north-korea-crisis-on-themselves>

has never been truly honored." And the situation has recently worsened, as we all know, so that "the need for nuclear disarmament through multilateral diplomacy is greater now than it has been at any stage since the end of the cold war."

As for the second point, the Italian Government motivations for not even taking part in the negotiations move around several arguments: the advisability of a more traditional and gradual road to disarmament through the existing treaties, the engagements taken as *NATO* members, the risks of political polarizations inside the international community, but oddly enough the quoted written parliamentary answer fails to mention precisely the contentious point of the stationing of US nuclear warheads on the Italian territory: a stationing that would be forbidden should Italy decide to sign the *Ban Treaty*

This was instead a topic well present in the debate among the signatories of the *Open Letter* to Italian Government. The provision that in any case, flawed as it may be, the article 1.1.g of the *Ban Treaty* makes is indeed that:

*Each State Party undertakes never under any circumstances to: ... allow any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices in its territory or at any place under its jurisdiction or control.*

This is in fact a good result, if the treaty proponents could induce enough non-nuclear states to accept, sign and ratify the *Ban Treaty*; and in fact to several of the signatories of the *Open Letter* it appears to represent the unique fairly concrete and realizable provision contained in it.

While indeed the successful negotiation of the *Ban Treaty* is generally considered as a boost for the goal of ridding the planet of nuclear arsenals, and although – by sending the clear message that the majority of the people in this world do not believe that these arsenals increase their security – it has been widely hailed as a remedy for some of the shortcomings in the existing legal and moral framework on such weapons, this success story – one of the few in this last troubled period – does not come without qualification.

The *Ban Treaty*, proposed by the six *NAC*<sup>18</sup> states, was adopted on July 7 by 122 countries at UN, but it has been indeed<sup>19</sup> "potentially fatally undermined by a boycott by the nuclear powers. The US, Britain and France declared, cynically as critics saw it, that they preferred to stick with the never-ending *NPT* route to disarmament." The very same route that – among others – "has helped to create an environment in which North Korea ... is rapidly advancing its nuclear ambitions with apparent impunity, at great risk to international stability." One could have hoped then that the at least the five recognized nuclear states with the *umbrella states* would have jumped on the opportunity to strengthen the *NPT* constraints against the present dangerous drift; and we have assisted instead to a sort of reckless Conspiracy of Silence against the negotiations, with the (not too secret) hope that they simply will fade away leaving everything exactly as it is today

It is openly acknowledged, then, that the *Ban Treaty* will be largely ineffectual from a legal standpoint (a treaty is really binding only for the countries that enter it), and that at this time it is rather a moral and political tool to advance a more ambitious disarmament agenda with the view of possibly luring (at least some of) the *NO states* into an acceptance of its principles: more or less as it happened in the case of the *Ottawa Antipersonnel Mine Ban Convention*<sup>20</sup>. But, besides that landmines and nuclear weapons are not exactly in the same class, even this evolution cannot be taken for granted.

One of the arguments, for instance, is that the large consent around the *Ban Treaty* sent the clear message that the majority of the people in this world do not believe that nuclear weapons increase

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<sup>18</sup> New Agenda Coalition (Brazil, Egypt, Ireland, Mexico, New Zealand and South Africa)

<sup>19</sup> <https://www.theguardian.com/world/2017/sep/05/nuclear-armed-nations-brought-the-north-korea-crisis-on-themselves>

<sup>20</sup> <http://www.icbl.org/en-gb/the-treaty/treaty-in-detail/treaty-text.aspx>

their security. This would put a strong pressure on the *NO states* to finally enter the *Ban Treaty* even if they did not take part into its redaction. Also this statement however should be tempered. It is argued indeed that out of 195 UN countries eligible to vote<sup>21</sup> 122 accepted the treaty – the 63.6% of all the countries, apparently a large majority – 1 voted NO, and 1 abstained, while 71 did not at all take part in the negotiations. But these too simplified numbers do not seem to say the whole story. The 195 UN countries are in fact very different from each other, and while fairly enough all have the same right to vote, their differences should also somehow be taken in to account.

The differences we refer to here are not only about their control of a nuclear arsenal, but also about their size and weight. The 73 *NO states* can indeed be sorted in several main groups: 9 nuclear and 64 non-nuclear

- the 5 nuclear countries acknowledged as such by the *NPT*
- the 4 nuclear countries outside the *NPT*
- the 62 non-nuclear countries that did not participate in the negotiations
- the 2 non-nuclear countries that did participate, but either voted NO (1), or abstained (1)

These *NO states* encompass moreover:

- all the (to date) nuclear states
- the totality of the *NATO* states (nuclear + *umbrella countries*)
- 22 (out of 27) *EU* countries: only Austria, Cyprus, Ireland, Malta and Sweden voted YES

The group of the *YES states* on the other hand also contains South Africa and Kazakhstan (former nuclear), Saudi Arabia (which contributed to Pakistan arsenal), Brazil (which longtime ago had a secret nuclear project) and Iran (which is suspected to harbor nuclear ambitions).

As a number, 73 is just the 37.4 % of the 195 UN countries hinting to an almost 2/3-majority of the *YES states*, but let us look also at some homemade demographic<sup>22</sup> and economic<sup>23</sup> statistics that are certainly reliable at least as orders of magnitude.

	countries	%	population (M)	%	GDP (US\$ B)	%
<i>NPT</i> nuclear	5	2,6%	2.009	26,7%	36.136	48,8%
non <i>NPT</i> nuclear	4	2,1%	1.570	20,9%	2.891	3,9%
non-nuclear NO	64	32,8%	988	13,2%	21.313	28,8%
<b>non-nuclear YES</b>	<b>122</b>	<b>62,6%</b>	<b>2.944</b>	<b>39,2%</b>	<b>13.643</b>	<b>18,4%</b>
TOTAL	195	100,0%	7.511	100,0%	73.983	100,0%

Instead of being a 2/3-majority of the UN states, the *YES states* account in fact for less than 40% of the world population, and are entitled to just less than 20% of its GDP. The 5+4 nuclear countries alone on the other hand amount to almost 50% of the world population, while the 5 *NPT* nuclear countries alone account for almost 50% of the world GDP.

On the plus side remark however that, for instance, Saudi Arabia (and all the gulf states), Iran and Kazakhstan voted YES: better still, if they sign and ratify the *Ban Treaty* in the future, Iran would be doubly committed to non proliferation, Kazakhstan would confirm its renunciation and Saudi Arabia

<sup>21</sup> [https://s3.amazonaws.com/unoda-web/wp-content/uploads/2017/07/A.Conf\\_.229.2017.L.3.Rev\\_.1.pdf](https://s3.amazonaws.com/unoda-web/wp-content/uploads/2017/07/A.Conf_.229.2017.L.3.Rev_.1.pdf)

<sup>22</sup> [https://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_population\\_\(United\\_Nations\)](https://en.wikipedia.org/wiki/List_of_countries_by_population_(United_Nations))

<sup>23</sup> [https://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_GDP\\_\(nominal\)](https://en.wikipedia.org/wiki/List_of_countries_by_GDP_(nominal))

would indicate that it will not seek its own deterrent. All three will moreover not accept nuclear weapons from other countries: not at all a foregone conclusion<sup>24</sup>.

All that is not said to belittle the *Ban Treaty* outcome: showing these numbers could be seen indeed as rather cynical and unfair, if not utterly defeatist, but in fact it is only used here to gauge the amplitude of the gap to be filled in order to take advantage of this treaty. Arguably the public opinion in every country is not monolithic, and also in many *NO states* there are vociferous antinuclear, pacifist movements that could influence their governments into entering the UN *Ban Treaty*. But the present North Korean missile and *H-bomb* crisis, instead of being understood as the byproduct of the myopic policies of the nuclear states, seems to contribute to the impression that it is impossible to get rid of nuclear weapons. Also the stress laid on the Russia new assertiveness seems to go in the opposite direction, namely against an abandonment of nuclear weapons, and even in favor of the presumed reassurance provided by the presence of US nuclear weapons.

Can we hope then in a *Landmine Convention effect*? Could we somehow trigger a consensus *snowball*? Persuading not the already convinced, but the unconvinced would not be easy. Of course the most difficult would be to modify the position of the 5+4 nuclear states: for understandable reasons their commitment to the nuclear weapons is the strongest. It would be easier hence try to change at least the minds of the non-nuclear states that did not participate into the negotiation, even if their absence made things more difficult. With their nonattendance in fact they also refused, for instance, to acknowledge what provisions (if any) they could accept beyond a mere statement banning the nuclear weapons as inhumane. Moreover, five of these states (Germany, the Netherlands, Belgium, Italy and Turkey) must not only agree in principle, but must also get rid of the US nuclear weapons stationed on their territory. This of course is all within what *USPID*, *Pugwash* and other actors in the arms control community propose since many years, but they also know how difficult it has been in the past to get the governments attention (let alone their approval) about this elimination. However, because of the public opinion orientation, countries like Germany, Japan, Belgium, Netherlands and Italy (all non-nuclear *NO states*) could be easier to move into the YES field, and we can only work toward some shift in these countries to begin upending the balance. The *USPID* Scientific Council already took in 2008 a position<sup>25</sup> against US nuclear weapons in Italy: in this sense a renewed effort of *USPID* in the direction of convincing the Italian public, Parliament and Government, and maybe an updated version of the 2008 document would be highly advisable.

October 1, 2017

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<sup>24</sup> The *Ban Treaty* has been open for signature on September 20, 2017, and – at the date of this writing – 53 countries have already signed it and 3 have ratified: Iran, Kazakhstan and Saudi Arabia, however, did not yet sign it, as can be seen at the UN web page [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXVI-9&chapter=26&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-9&chapter=26&clang=_en)

<sup>25</sup> [http://www.uspid.org/Documenti/AltriDocumenti/Archivio/UfficialiConsiglioScientifico/2008\\_05\\_CS\\_en.pdf](http://www.uspid.org/Documenti/AltriDocumenti/Archivio/UfficialiConsiglioScientifico/2008_05_CS_en.pdf)