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ELN Issue Brief: Nuclear Ban
Treaty

A Balancing Act: NATO States
and the Nuclear Ban Treaty

Emil Dall

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Earlier this month, 122 states voted to adopt a treaty prohibiting nuclear weapons. As the only delegation from a NATO state in attendance, the Netherlands was the sole party at the negotiations who voted against the proposed treaty. The Dutch representative, Lise Gregoire, stated that whilst her delegation appreciated the “broad momentum for disarmament” the ban treaty has created it was “incompatible with NATO obligations”.² The Dutch had been sent to the negotiations only after a vote in the national parliament had mandated the government to attend.

The Netherlands is an example of domestic politics playing a significant role in determining the interaction with the nuclear ban treaty. But other non-nuclear NATO states are also caught between their commitment to NATO and domestic aspirations for nuclear disarmament represented by the ban treaty. While these governments oppose the treaty on paper, it is important to acknowledge internal domestic debates, and the fact that many non-nuclear NATO states have interacted differently with the treaty over time. This might have implications for the wider Alliance, which will need to rethink its approach towards a finished ban treaty.

The Ban Treaty and NATO Obligations

Non-nuclear NATO allies have very clear reasons for not being able to sign up to a ban treaty. Article 1(a) and (d) of the nuclear ban includes prohibitions on the development, production, testing, use or threat of use of nuclear weapons. In any circumstance where nuclear-armed allies would plan to employ their nuclear weapons in defence of non-nuclear allies, the treaty would consider this unlawful. This would also constrain assurance or signalling missions carried out by nuclear-armed states on behalf of the wider Alliance. NATO states, by nature of their membership of an alliance where nuclear weapons form part of mutual defence, would therefore be in violation of the treaty. Article 1(e) further prohibits states to “assist, encourage or induce, in any way” any other state to carry out the aforementioned activities. Many ban proponents interpret the core prohibitions in the treaty as including any form of military planning that includes nuclear weapons.

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2 <https://www.permanentrepresentations.nl/latest/news/2017/07/07/explanation-of-vote-of-ambassador-lise-gregoire-on-the-draft-text-of-the-nuclear-ban-treaty>

An additional provision is directed at those non-nuclear NATO states that host US nuclear weapons on their soil, which includes the Netherlands. Article 1(g) of the treaty prohibits “any stationing, installation or deployment of any nuclear weapons” in the territory of treaty signatories.

Therefore, as long as nuclear weapons remain central to NATO’s mission and defence, membership of the Alliance will be incompatible with the principles set out in the nuclear ban treaty, as the Dutch delegation rightly stated.

The US has consistently urged its non-nuclear European NATO allies not to engage with the nuclear weapons ban treaty. In a letter to allies on October 17 2016, ahead of a vote in the UN to mandate the start the negotiations, the US “strongly encourage[d]” allies to vote no and avoid “introducing any doubt regarding Alliance unity”.³ The US, UK and France have all stated that the nuclear ban treaty is an unwelcome distraction from long-term gradual disarmament achieved through existing frameworks, such as the Nuclear Non-Proliferation Treaty, and ignores the international security dynamics that lead to their continued reliance on nuclear deterrence.

Yet, NATO states have interacted with earlier processes that led to the ban treaty movement. The Humanitarian Initiative, the series of conferences between 2013 and 2014 set out to examine the humanitarian consequences of nuclear weapons use and to reframe disarmament discussions, enjoyed support from non-nuclear NATO states. 19 of the 25 non-nuclear NATO states attended all three conferences, and all attended at least two.⁴ During this time, non-nuclear NATO states voted in support of resolutions in the UN First Committee referencing the Humanitarian Initiative.

Many however started to disengage from the initiative after it became clear that some states (including Austria and Ireland) were diverting the conversation away from a facts-based discussion over nuclear use and towards references to ban processes. During the second conference in 2014, references were repeatedly made to the successful processes that resulted in the banning of landmines. The German delegation warned states that comparisons between nuclear weapons and landmines were not only unconvincing, they would also risk antagonizing important players central to disarmament discussions.⁵ Unsurprisingly, as conversations over a nuclear ban intensified, NATO states who had previously felt comfortable taking part and supporting the processes, disengaged from the initiative.

3 http://www.icanw.org/wp-content/uploads/2016/10/NATO_OCT2016.pdf

4 Montenegro became a full member of NATO in 2017 and is not included in this figure.

5 http://www.atomwaffenfrei.de/fileadmin/user_upload/pdf_Dateien/German_Statement_Nayarit.pdf

Difficult Conversations – The Case of Norway

Despite their disengagement from the nuclear ban process, many non-nuclear NATO states remain frustrated over the lack of progress made by the nuclear weapons states on nuclear disarmament. A case in point is Norway, who hosted the first Humanitarian Initiative conference in March 2013, and has long been at the forefront of international peace and disarmament issues. In 2011, before the conference, the then-Labour foreign minister stated he wanted a “real total prohibition” on nuclear weapons.⁶ Conversations with those familiar with the process however suggest that others in the government, particularly in the defence ministry, did not share this view.

Two developments caused the Norwegians to back away from initial aspirations. First, as the facts-based discussion which the Norwegians started in 2013 began to shift towards a political conversation around a nuclear ban, Norway had to reconsider its engagement with the initiative. Second and supporting this reconsideration was the election of the Conservative party to government in October 2013, which enabled those voices critical of a nuclear ban to be the majority view.

In 2015 the Norwegian government explained in a statement at the UN that the original “humanitarian initiative has now been undermined” by efforts to achieve a nuclear ban treaty, which it perceived as “further polarization” of the international community.⁷ After the 2016 UN vote which mandated the beginning of negotiations on a nuclear ban treaty, the Norwegian government explained that although it voted no, it fully understood and sympathised with the ban initiative, acknowledging that “progress on nuclear disarmament has been too slow ... because nuclear-weapon states have failed to engage wholeheartedly and with genuine determination”.⁸

Norway therefore has an active domestic discussion on the value of deterrence vis-a-vis disarmament commitments, and discussions on the nuclear ban treaty and the role taken by Norway have continued to take place in the Norwegian Parliament. In May, all parties apart from the government agreed that “there must be an international convention that stipulates the conditions for a world free of nuclear weapons” and recommended that the government take an active role in this.⁹ In November 2015, a Labour party politician referred

6 <https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Innstillinger/Stortinget/2015-2016/inns-201516-199/>

7 Norway 2015 L37 explanation of vote

8 http://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com16/eov/L41_Norway.pdf

9 <https://www.stortinget.no/globalassets/pdf/innstillinger/stortinget/2014-2015/inns-201415-296.pdf>

to the government's decision to vote no to starting ban treaty negotiations as "a breach of Norway's leadership role" in the work to ban nuclear weapons.¹⁰

Clearly, countries like Norway, who are unable or unwilling to endorse a ban treaty because of their NATO obligations, will have difficult domestic conversations after a nuclear ban treaty enters into force. Domestic criticism will not go away and the government will have to ensure that nuclear deterrence, a cornerstone of the NATO alliance, is partnered with continued progress on multilateral disarmament to manage domestic expectations.

Crucial also is the interaction with non-NATO states who are strong supporters of the ban treaty. Austria, Ireland, Switzerland, Sweden and Liechtenstein all supported the final treaty text and their accession to the treaty is imminent. Some of these countries work closely with NATO states on non-proliferation and disarmament issues in the NPT process, and have issued joint statements under the EU banner.¹¹ Norway and Sweden work even more closely together in the NPT framework under a common Nordic banner, and issued a joint statement at the 2017 NPT Preparatory Committee acknowledging that they held "different views" on the ban treaty process.¹² Both states also work with the UK and the US on disarmament verification programmes, and it is likely that there will be additional pressure by both Norway and Sweden to create concrete results from this process.

Nuclear Ban Is an Alliance Issue

How these relationships will play out over time, as a nuclear ban treaty becomes the norm amongst the countries that support it remains to be seen. However, with the ban now a reality, NATO allies will have to factor the treaty into their conversation both with domestic audiences, and with states supporting the ban treaty, for whom the treaty is a victory and the culmination of decades of campaigning for a world free of nuclear weapons.

This makes the nuclear ban treaty a difficult balancing act for NATO states. So far, non-nuclear NATO states have first and foremost sought nuclear assurance from their nuclear-armed allies. Nuclear disarmament, while important, has been considered as a NATO priority only in the context of a favourable security environment. However if no progress is seen to be made towards a world free of nuclear weapons, domestic pressures could tip the scales in favour of disarmament concerns.

10 <https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Referater/Stortinget/2015-2016/151111/ordinarsporretime/3/>

11 See Michal Smetana (2016), *Stuck on disarmament: the European Union and the 2015 NPT Review Conference*, *International Affairs* 92:1, 137-152

12 <https://papersmart.unmeetings.org/media2/14684179/norway-2017-npt-prepcom-nordic-statement-for-the-general-debate-norway-.pdf>

Returning to the case of the Netherlands, joining a nuclear ban treaty and removing US forward-deployed nuclear weapons from its soil is of course a far off prospect. However, it should be acknowledged that it was internal political pressures that brought the Dutch to attend the negotiations in the first place, and those pressures will need to be managed as the nuclear ban treaty becomes a reality.

The nuclear-armed allies, for their part, will need to acknowledge the difficult situation that many NATO states find themselves in. Having asked them to oppose the ban treaty process it is now time that nuclear weapon states provide something in return: a demonstrated commitment that they are willing to engage with serious nuclear disarmament initiatives. This does not mean abandoning the correct assessment that disarmament is contingent on improvements in threat reduction and a more favourable security situation. Rather, it could include credible and concrete initiatives to lower nuclear risk, and seek to create the security conditions they claim are so far holding them back from deeper commitments to disarmament.

The Alliance should accept that some non-nuclear states will have to interact with the nuclear ban treaty. Giving them a credible commitment to disarmament to demonstrate to the ban treaty audiences would go a long way to bridge the difficult balancing act many NATO allies will face.

About the Author

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Emil is currently part of the 2017 CSIS PONI Nuclear Scholars Initiative studying the possible consequences of a nuclear weapons ban treaty, which this issue brief forms part of. The author would like to thank Rebecca Hersman, Andrea Berger, Dr. Justin Anderson, Dr. Heather Williams, Jon Wolfsthal, Amb. Susan Burk and Dr. Lewis Dunn for their valuable feedback on this research so far.

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